

**American Ideals:
Founding a “Republic of Virtue”
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American Ideals: Founding a “Republic of Virtue”

Scope:

Frequent reference to the United States as a young nation tends to obscure the fact that it is also the oldest continuing democracy in the world. More than that, it also tends to obscure what the founders themselves understood to be the ancient principles on which they defended the Revolution. John Adams put the matter trenchantly when he noted that the Revolution was complete before a shot was fired. However, staging a revolution against a nation regarded as being one's own in the deepest sense of shared traditions and common ancestry was a grave and entirely unsettling matter. Just a few years before 1776, some who would take a leading part in the final dissolution of bonds spoke and wrote passionately for reconciliation.

In this 12-lecture course, the focus is directly on the principles that guided the founding, the conditions that led to the fateful break with the mother country, and the attempt to design institutions capable of realizing the very ideals expressed in the founding documents. It is important to recall that, before there were hostilities between the Crown and the colonies, there was fidelity. At key points, one or another concession might have resulted in the full and even happy absorption of the colonies into the large and still expanding British Empire. That this was not to happen is explained by a number and variety of factors, some at the level of sheer incompetence and even venality (both the Stamp Act and the tea tax come readily to mind), and some owing to the rapid growth of population and wealth in the new world. This growth would have taxed the political and administrative acumen of a great king and a great Parliament, which at the time, England could not claim to possess. Thus are the faithful subjects of the 1740s the anxious and suspicious loyalists of the 1750s and the openly defiant “Americans” of the 1760s.

The success of the war against Britain led first to financial crisis, a weak and widely suspected movement toward centralized authority, patterns of exploitation, and crude forms of political manipulation. The war was won, but the peace was anything but tranquil. Several plans for uniting the colonies were put in place, each not much more effective than its predecessor. Finally, but without widespread hopefulness, there was agreement to appoint representatives to meet in Philadelphia in 1787, ostensibly to refine and give greater force to the Articles of Confederation. The result, alas, was the Constitution of the United States, arguably the most refined and effective political document contrived by the human imagination. But would it be accepted? And what is to be said of such a document, so silent on the matter of the rights of citizens? By way of pamphlets and speeches, by way of that extraordinary collection of newspaper essays that come down to us as *The Federalist Papers*, the already baptized nation now could begin its real political life, understanding its achievement less in local than in global terms, because the principles enunciated were understood to be universal in their application, universal in their internal logic. Here, then, was this *Novus ordo saeculorum*—this new order of the ages.

Lecture One

The Colonists as Faithful Subjects

Scope: Montesquieu, on the reading list of most of the founders, had argued that different forms of government call for different dispositions and perspectives on the part of those governed. Those living under tyranny must develop the character of fearfulness; those living under monarchs, the character of honor; but those living within a republic, the character of virtue itself. The years leading up to the Declaration of Independence were marked by any number of conciliatory measures on both sides. Only slowly did the idea of separation form and find enthusiasts; only slowly did monarchical fidelity yield to republican ideals. In the pamphlets and in the pulpits of the colonies, one is reminded of the close, even familial ties extending across an ocean and strengthened by the customs and values shaped over centuries.

Outline

- I. The American Revolution was understood by those who defended it as a revolution in thought and in principle, right not just for the colonies but for the world. Yet, it did not begin as a “revolution” at all; instead, it was an assortment of complaints.
 - A. In the years before the Revolution, even amidst strenuous protests and boycotts aroused by the tax policies of the mother country, the dominant character of American resistance is one of restraint and a deep sense of duty.
 - B. Duty to what? Duty to the principles established by Magna Charta, by that “Glorious Revolution” in the England of 1688, by the works of Milton and Locke and other defenders of individual rights and the rule of law.
 - C. Arthur Lee (1740–1792) declared in one of his passionate publications, “Liberty is the very idol of my soul, the parent of virtue...” (*Monitor I*, p. 80, “The Farmer’s and Monitor’s Letters to the Inhabitants of the British colonies,” Williamsburg, 1769; reprinted in the Virginia Independence Bicentennial Edition, 1969).
 1. Arthur Lee was educated at Eton, studied medicine at Edinburgh and law in London. His ties to Britain were firm and affectionate.
 2. Lee, by 1776 a member of the Committee of Secret Correspondence, would be seeking French and general European support for the War of Independence, insisting that the cause of liberty was universal.
 3. Lee shows the two sides, the “split personality,” that characterized so many of the leaders of the American cause: adherence to the rule of law and an unwavering commitment to freedom from every form of tyranny, every instance of arbitrary governance.
 - D. In 1818, writing to H. Niles, John Adams answers the question of just what the American Revolution was: “The Revolution was effected before the war commenced. The Revolution was in the minds and hearts of the people; a change in their religious sentiments of their duties and obligations.” What factors led to such a change?
 - E. Parliament imposed taxes in part to defray the costs of maintaining a standing army in the colonies.
 1. France and Spain had fought with Britain for control of America in four major engagements between 1689 and British victories in 1763. The Seven Years War in Europe was an extension of the quest for colonial supremacy.
 2. Victories in upstate New York and in Canada were won at great cost, depleting the British monetary reserves and expanding her required military deployments.
 3. The conclusion of the Seven Years War (the French and Indian War in the colonies) removed French control from the eastern border of America and from regions of Canada and the American southern territories.
 4. French control now gone, to maintain order, the Crown was required to deploy large military contingents.
 5. The British economy, already depressed by the costs of protracted war, called for a number of parliamentary measures unpopular in the colonies.

6. Already in place was the use of import duties to support British military initiatives. In 1698, 50 percent of all government revenue was supplied by land taxes, but by 1740, this had dropped to 20 percent. Thus, by the time of the American Revolution, the British government had “perfected” the art of taxing trade.
- F. Even in the face of such measures, the more influential colonial voices at the time pleaded for restraint.
1. John Dickinson’s *Letters from a Farmer in Pennsylvania* (1768) illustrates this clearly. It was among the most influential of the pamphlets of the 1760s.
 2. Dickinson acknowledges the authority of Parliament and the ties that bind the colonies to Britain:
 3. Dickinson knew, also, however, that the new taxes departed from long tradition. The historic justification for taxes was to prevent destructive commercial competition, whereas the new impositions were intended solely to raise revenues. This, Dickinson says, “I call...a most dangerous innovation.”
 4. Still, the purpose of Dickinson’s letters is the peaceful resolution of differences.
- II. Formal and official attempts at reconciliation continued up to the signing of the Declaration of Independence.
- A. The Continental Congress, even after hostilities began, made attempts to resolve the disputes.
1. A year before the Declaration of Independence, the American Congress was still seeking some way to avert what many had come to regard as inevitable.
 2. The Olive Branch Petition, approved by the Continental Congress on July 5, 1775, is illustrative. Addressed directly to George III, the document begins with the members of Congress declaring themselves to be, “we your Majesty’s faithful subjects of the colonies,” entreating the king to consider “this our humble petition.”
 3. Noting that the tie between the mother country and the colonies had excited the envy of other nations, the Congress recalled how British and colonial forces together had repelled French and Spanish attempts to break that bond.
 4. Owing to this sacrifice, which redounded to the very great advantage of the mother country, “Your loyal colonists...doubted not but that they should be permitted with the rest of the empire, to share in the blessings of peace and the emoluments of victory and conquest.”
 5. However, the petition goes on to say, owing to Parliament’s punishing initiatives, that the colonists now must arm themselves for their own defense.
 6. All this conveys anything but the true sentiments of a faithful people. Thus, the Olive Branch Petition concludes with words that could leave no doubt as to the sincerity of the Continental Congress in seeking the full restoration of family membership within the empire.
- B. All attempted reconciliations were rebuffed and ignored by the British Crown, which seemed to be unmindful of the broad philosophical and principled foundations that were now in place for leaders of the colonies to make the strongest case for independence.
- III. The period 1700–1776 was graced by probably the most philosophically inclined generation in U.S. history.
- A. The period was marked by little formal schooling and a highly educated population.
1. As Edmund Burke noted, the colonists were avid readers, particularly on the subject of law.
 2. The religious grounding of colonial notions of rights and liberties was tied into notions of natural law.
- B. Colonists were reading the works of such writers as Montesquieu, Locke, and Milton and, in doing so, were reminding themselves of the grounds of their own liberties as British subjects.
1. They regarded themselves first and foremost as British subjects who had won their rights over the course of years.
 2. The first revolutionary arguments were against parliamentary initiatives that would have been regarded as unconstitutional had they been imposed on British subjects in Britain.
- C. At the time of the founding, colonists were not rugged individualists but, rather, communitarians. They understood their obligations to be chiefly to each other, putting self-interest aside; they believed themselves to be members of a commonwealth, premised on Christian (Puritan) principles.
- D. Ancient Rome was on the minds of America’s 18th-century founders, because they were deeply interested in failed republics.
- E. They understood virtue as that formation of character that has one behave under the light of one’s own reason, properly understanding what the risks and mistakes are. Virtue is tied into what one does

voluntarily. There can be no virtue without freedom. (This is what Arthur Lee meant by “parent of virtue.”) For the founders, there is an inextricable connection among moral freedom, political liberty, and that form of self-cultivation that results in a person of virtue.

F. A major source of these ideas was Scotland.

1. The founders owed a debt to the Scottish Enlightenment; they often referred to their Scottish teachers and sent their children to Edinburgh for their education.
2. Scottish thinkers had a developed idea of liberty and wrote prolifically on the human sentiments and the relationship between moral freedom and a life of virtue.

Essential Reading:

Maier, Pauline. *From Resistance to Revolution: Colonial Radicals and the Development of an Opposition to Britain, 1765–1776*. New York: Alfred Knopf, 1974.

Supplementary Reading:

Johnson, Paul. *A History of the American People*. New York: Harper Collins, 1998.

Noll, Mark. *The Old Religion in a New World: The History of North American Christianity*. Grand Rapids, Michigan: Eerdmans, 2002.

Questions to Consider:

1. What did John Adams mean when declaring that the American Revolution began before the war did?
2. What was the Olive Branch Petition, and what did it signify?

Lecture Two

Colonial Constitutions and Their Inspiration

Scope: Trade between the colonies and Great Britain and other nations called for orderly procedures. So, too, did the governance of rapidly growing communities and the steady influx of immigrants. The early colonial constitutions already display a measure of philosophical acuteness and a recognition that a “new world” brings with it issues and possibilities of a special sort.

Outline

- I. The original royal charters establishing the colonies were intended to control territorial boundaries and regulate fledgling commercial and agricultural initiatives while preserving fealty to the Crown. Governance was by the royal appointment of councils.
 - A. The earliest Crown charters, for the Roanoke settlement at Jamestown in 1602 and, later, for the colony of Massachusetts, were just that: royal charters making clear the claims of the Crown, the duties of the loyal subjects, and the chain of authority within the colony and between the colony and the mother country.
 1. April 10, 1606, is the date of the first charter of Virginia, wherein James I grants to those “humble Suitors unto us” a license to “deduce a colony of Sundry of our people.”
 2. Governance would be by a council of 13 men, appointed by the Crown and serving at the pleasure of the Crown.
 3. All this is put in place for a settlement that, at the time, numbered about 210 colonists.
 4. Succeeding charters in 1611 and 1621 simply took cognizance of territorial nuances, maritime commerce, and similar matters.
 - B. Distance alone permitted considerable latitude in the matter of colonial governance.
 1. It was not uncommon for official documents to take months to reach their colonial destinations.
 2. The relatively insignificant contribution of the colonies to the needs of empire resulted in a benign neglect of issues judged to be of merely local consequence.
- II. From the earliest time, colonial governance progressed toward democratic forms of local rule.
 - A. The dominant religious perspective of the early settlers arose from the preceding half-century of religious upheavals in the Anglo-European world.
 1. The Puritans had stridently opposed an established church in the homeland.
 2. Fears that the Stuart monarchy would reaffirm the authority of the Roman Catholic Church had led to revolutionary upheavals in 17th-century England, exported as a defensive and wary dissenting disposition on the part of the early settlers.
 3. Amidst the upheavals in the mother country, especially the Glorious Revolution of 1688–1689, it was the gentry that identified itself as the class to be reckoned with, contrasting “county” and “town” with the royal court. Again, a spirit of civic independence, already robust, now could flourish at so great a distance from the homeland.
 - B. Evidence for the sense of the essential equality of each citizen in the matter of governance is found in the earliest colonial constitutions, drafted by persons well informed in the post-Reformation literature of natural equality and natural law.
 1. Richard Hooker’s *On the Laws of Ecclesiastical Politie*, the first part of which was published in 1593, was an influential work even before it would be cited so approvingly by John Locke nearly a century later.
 2. Hooker’s aim was to set a moderate course for Christianity in England against extreme forms of Puritanism and Presbyterianism.
 3. His treatise did not challenge the authority of Scripture but distinguished between an extreme literalism and the reasonable person’s understanding of what Scripture claims and requires.
 4. Human nature is equipped by a providential God intuitively to recognize the very law of nature by which societies can be formed and maintained, relationships guided by ordered liberty, destructive tendencies controlled and rooted out.

5. Except in instances of gross defect or disease, God has given each person sufficient reason to comprehend and accommodate the requirements of natural law and, thus, to have equal standing with all others in an ordered commonwealth.
- C. Democratic principles appear in the colonies decades before the Glorious Revolution of 1688, which resulted in Britain's Bill of Rights in 1689.
1. The first half of the 17th century in England was marked by ever more insistent claims of the rights and powers of Parliament. Lord Coke's *Institutes* established the lawfulness of these claims.
 2. Parliamentary resentment toward Charles I—a resentment that would ultimately cost the king his head—produced a number of remarkable measures, such as the right and duty to take arms against the king himself. Thus, in 1642, Parliament asserts the right to take up arms to defend liberty and the Crown itself against the influences of a “malignant party.” One of the phrases would show up more than a century later in the Declaration of Independence: “We the Lords and Commons in Parliament assembled...finding ourselves engaged in a Necessity to take up Arms...do now think fit to give this Account unto the World...”
 3. Several years earlier, “The Fundamental Agreement, or Original Constitution of the Colony of New Haven” (June 4, 1639) illustrated the colonists' own sense of the principles of liberty that inhere in the individual. As various motions were proposed and discussed and votes were taken from all assembled, we note a dissenting voice regarding one of the proposals:

WHETHER free burgesses shall be chosen out of the church members, they that are in the foundation work of the church being actually free burgesses ...

...One man stood up and expressed his dissenting from the rest in part; yet granting, 1. That magistrates should be men fearing GOD. 2. That the church is the company where, ordinarily, such men may be expected. 3. That they that choose them ought to be men fearing GOD; only at this he stuck, this power out of their hands. Another stood up and answered, that nothing was done, but with their consent. The former answered, that all the free planters ought to resume this power into their own hands again, if things were not orderly carried. Mr. Theophilus Eaton answered, that in all places they choose committees in like manner.
 4. Or consider the colony of Rhode Island, in 1641, passing this resolution:

It is ordered and unanimously agreed upon, that the Government which this Bodie Politick doth attend unto in this Island, and the Jurisdiction thereof, in favour of our Prince is a DEMOCRACIE, or Popular Government; that is to say, It is in the Powre of the Body of Freemen orderly assembled, or the major part of them, to make or constitute Just Lawes, by which they will be regulated, and to depute from among themselves such Ministers as shall see them faithfully executed between Man and Man.
- D. The colonists believed that constitutions should be understood in the same way that the Scriptures should be understood: under the light of reason. “Right reason” informs the individual conscience and constitutions become binding in virtue of the summons they address to reason.

Essential Reading:

Kurland, Philip, and Ralph Lerner, eds. *The Founders Constitution (in Five Volumes)*, vol. 1. Indianapolis: Liberty Fund, 2000.

Supplementary Reading:

Lutz, Donald, ed. *Colonial Origins of the American Constitution*. Indianapolis: Liberty Fund, 1998.

Questions to Consider:

1. Discuss several of the factors that resulted in the early colonies enjoying a reasonable degree of self-rule.
2. Discuss the main factors in 17th-century England that supported the general view that governmental power arises from the consent of the governed.

Lecture Three

Who “Founded” the United States?

Scope: As the colonial constitutions were fashioned, a movement toward unification was undertaken. “Plans of union” were set forth, the colonists recognizing the efficiency and, yes, the bargaining power arising from such combinations. But the larger context within which deliberations and strategies were conducted was that of the Enlightenment itself. The United States was “founded” as much by ideas as by men.

Outline

- I. The Albany Plan of Union (1754) was but the latest in a series of proposals designed to consolidate the defenses and the commerce of colonial America.
 - A. As early as 1643, we find the Articles of Confederation of the United Colonies of New England.
 - B. The articles acknowledge the common purposes of the New England colonies: “Whereas we all came into these parts of America with one and the same end and aim, namely, to advance the Kingdom of our Lord Jesus Christ and the enjoy the liberties of the Gospel in purity with peace...”
 - C. Mutual defense and shared religious convictions and values were the chief grounds on which to base confederation. But there was already in place a jealous safeguarding of what later would be called *states rights*.
 - D. William Penn advanced a more ambitious plan of union in 1697, encompassing all the colonies and specifying the jurisdictional powers within the whole.
 - E. In all, by the time of the Albany Plan, the colonies had wrestled with the problem of confederation for more than a century.
- II. As elusive as the right mode of confederation was, there was considerable uniformity in the broad principles to which the 13 original colonies had subscribed. In the pre-Revolutionary period, the political organization of the colonies might just as well have been crafted in the 15th as in the 17th century.
 - A. Loyalty to the Crown was integral to all colonial charters. These were, of course, granted by the Crown, which conceived of the colonies as companies able to generate wealth through trade and agriculture.
 - B. Property rights and rights of inheritance were featured in all the charters.
 - C. Class and property divisions were duly noted.
- III. The broad principles of the colonial charters, which presumably had a kind of “protected status” from medieval times to the American colonies of the early 17th century, would ring hollow a century later. The factors leading to a profound change in perspective were several:
 - A. The highly disciplined, Scripturalist perspective of the New England Puritans gradually evolved into that humanistic Calvinism that encouraged education, the study of nature, and the exercise of reason and individual conscience.
 1. The leading defenders of “natural law” theory in the 17th and 18th centuries (Hooker, Suarez, Puffendorf) had given pride of place to natural reason over such claims as traditional authorities might assert for themselves.
 2. The zealous contempt for the Church of Rome carried with it a very strong disposition to oppose centralized power in all its forms, even as fidelity to the British Crown was affirmed in various official documents.
 - B. The Glorious Revolution of 1688–1689 produced a bill of rights that fortified the American colonists in their rejection of capricious rule. The chief elements of that bill would be rehearsed often as the founders considered a federal constitution.
 1. The bill declared as illegal the king’s “pretended power of suspending the laws...without consent of Parliament, the levying of money for or to the use of the Crown...without grant of Parliament.”
 2. Also affirmed was “the right of the subjects to petition the king, and all commitments and prosecutions for such petitioning are illegal...”

3. "That the raising or keeping a standing army within the kingdom in time of peace, unless it be with consent of Parliament, is against law."
 4. "That the subjects which are Protestants may have arms for their defence."
 5. "That election of members of Parliament ought to be free" and "That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament."
- C. At the level of philosophical writing, Algernon Sidney's *Discourses Concerning Government* (posthumously published in 1698) and John Locke's influential *Two Treatises of Civil Government* (1690) were widely read. The case made for the rights of liberty and property was at once philosophical and religious.
1. Algernon Sidney had been executed by the Crown and had the status of martyr among the defenders of liberty. His *Discourses* declared: "If it be said that the word sedition implies that which is evil, I answer that it ought not then to be applied to those who seek nothing but that which is just...It would be madness to think that any nation can be obliged to bear whatever their own magistrates think fit to do against them."
 2. In chapter V ("Of Property"), Locke declared:

Whether we consider natural reason, which tells us that men, being once born, have a right to their preservation, and consequently to meat and drink and such other things as Nature affords for their subsistence, or "revelation," which gives us an account of those grants God made of the world to Adam, and to Noah and his sons, it is very clear that God, as King David says (Psalm 115. 16), "has given the earth to the children of men," given it to mankind in common.
 3. Against those who argued for the king's "divine rights," based on God's gift to Adam, Locke reasons that such a scheme would reserve all the world's property to one universal monarch! Moreover, "every man has a 'property' in his own 'person.' This nobody has any right to but himself. The 'labour' of his body and the 'work' of his hands, we may say, are properly his."
 4. In all cases, the final authority is the authority of reason itself, possessed in common by all fit for the rule of law.
- IV. The demographics of the New World created conditions that could not have been anticipated at the time of the earliest settlements.
- A. The growth of the colonies was exponential.
1. In 1607, Jamestown recorded approximately 210 settlers.
 2. Plymouth, in 1620–1629 had 2,500.
 3. By 1650, the colonial population was 28,000.
 4. By 1690, the colonial population had grown to 214,000.
 5. By 1750, the number reached 1.2 million.
- B. The 80-year period between 1600 and 1680 finds population increasing from less than 300 to about 155,000, but from 1680 to 1780, this 155,000 had grown to 2.8 million, with no end in sight.
1. There was a corresponding increase in the productive capacity and the purchasing power of the colonies.
 2. Commercial and financial growth created conflicts among the colonies.
 3. The cherished "democracies," adopted by Rhode Island and other jurisdictions, was strained by the sheer size and dynamics of colonies that were now states in the nearly modern sense.
- V. The Seven Years War, combined with the size and complexity of colonial America, generated internal conflicts that called for political solutions on a national scale.
- A. The Seven Years War between France and England (1756–1763) was, on the American side of the Atlantic, the French and Indian War.
- B. British victory, aided by the loyal colonists, established the supremacy of Britain in the eastern provinces, with French influence west of the Ohio River and in Canada now less formidable but still troublesome.
- C. The policing of western territories and dealings with the Indian nations were continuing problems.
- D. The new postwar realities led British political leaders to encourage greater unity in colonial America and a rational plan for dealing with the Indian nations.

VI. The Albany Plan of Union was the work of Benjamin Franklin and Thomas Hutchinson.

- A.** The plan was drafted with the participation of representatives of the six Iroquois nations and was submitted to the Crown in 1754. Franklin's notes on the plan summarize the arguments for the union:
1. The regulation of commerce among colonies often jealously and excessively protective of their own provincial interests.
 2. The requirement for a national defense, sparing each colony the need to raise an army of its own in the face of Indian or lingering French hostilities.
 3. The development of the territories west of the Ohio, thus enriching trade with Canada and, thereby, pulling Canada more into the British fold.
 4. The plan sought to create "one general government" in America, headed by a Crown-appointed president-general and a grand council appointed by the representatives of the people of the colonies.
 5. Representation was to be proportioned to population—here anticipating the House of Representatives.
 6. Domestic powers were to be broad, including the power to make treaties (and to make war) with the Indian nations, to acquire new territories, to regulate commerce between and among the colonies.
- B.** Alas, neither the Crown nor the citizens of America were prepared to accept the plan. Nonetheless, it drew attention to the need for unification and, indeed, the prospect of self-governance. More developed and then more stridently defended plans of union would soon follow.

Essential Reading:

Colbourn, Trevor. *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution*. Indianapolis: Liberty Fund, 1998.

Supplementary Reading:

Morgan, E. S., and Daniel Boorstin. *The Birth of the Republic: 1763–1789*. Chicago: University of Chicago Press, 1977.

Questions to Consider:

1. Consider the factors in the 17th century that weakened the traditional belief that the king or queen enjoyed a "divine right" to rule.
2. Discuss the major demographic facts that led to the Albany Plan of Union.

Lecture Four

Taxation Without Representation

Scope: Over a period of years, the colonies had returned to the Crown revenues in excess of what was expected. It may be said—as it was by John Adams—that the financial record alone betokened a heartfelt fidelity to the king. What, then, was all the fuss about with the Stamp Act, and why were 10 tons of Darjeeling sent to the bottom of Boston Harbor?

Outline

- I. Desperate for revenue, Parliament passed one act after another that led, first, to distrust and, then, to contempt on the part of the colonists.
 - A. Molasses Act of 1733: At a time when Parliament's right to levy taxes was unquestioned, many measures were introduced to regulate commerce and to secure British commercial interests challenged by France and Spain.
 1. The Molasses Act imposed a tax of six pence on each gallon of imported molasses to keep British exports to the colonies cheaper than those arriving from the French West Indies. The net effect was to increase the cost of producing rum in the colonies, thus causing a decline in export revenues.
 2. Colonial importers found various ways of avoiding the duties, leading Parliament to enact a new version of the tax in the form of the Sugar Act of 1764. Taxes on molasses were cut in half, but now a new tax was imposed on a wider range of imports.
 3. Lord Grenville, then Chancellor of the Exchequer, also intensified the inspection and boarding of ships delivering goods to or taking goods from the colonies.
 - B. Currency Act of 1764: From the outset, the colonies were unable to establish a stable form of currency and were often plagued by shortages. Dependence on Britain was nearly total, thus encouraging each of the colonies to print its own bills of credit, but without any centralized method of establishing fixed value.
 1. Remedies were needed to protect British creditors, who were accepting such bills of credit.
 2. The Currency Act gave Parliament de facto control of all the currency policies in the colonies. Colonies were denied the power to print new bills of credit.
 3. British sterling was imposed as the official hard currency, thus further increasing the already huge balance-of-payments deficit incurred through trade with Britain.
 4. The act also created a Vice-Admiralty Court, designed to hear cases involving allegations of smuggling. The court's structure and mission guaranteed less than evenhandedness.
- II. The Stamp Act of 1765 was the act that came to be the last straw. It generated more enmity than all preceding bills combined.
 - A. The very wording still has evocative power more than two centuries later:
 1. "For every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written or printed, any declaration, plea, replication, rejoinder, demurrer, or other pleading, or any copy thereof, in any court of law within the British colonies and plantations in America, a stamp duty of three pence."
 2. "For every skin or piece of vellum or parchment, or sheet or piece of paper, on which shall be ingrossed, written, or printed, any monition, libel, claim, answer, allegation, information, letter of request, execution, renunciation, inventory, or other pleading, in any admiralty court within the said colonies and plantations, a stamp duty of one shilling."
 - B. The colonists' opposition to the act was strengthened by Britain's own William Pitt ("the Elder") urging the House of Commons to repeal it.
 1. Pitt's standing had been won as a result of his successful leadership during the Seven Years War.
 2. Born a commoner, he could speak with authority about the rights common persons had won over a course of years in Britain.
 - C. The response to the Stamp Act was immediate and intense, taking portentous form in Boston in 1765. First, the "Loyal Nine," then, an ever-growing group of merchants and craftsmen named the Sons of Liberty, staged public protests.

1. Members included those at the *Boston Gazette*, which published condemnations and urged others to join, the number soon swelling to more than 2,000.
 2. On August 14, 1765, an effigy of Andrew Oliver, designated as the Crown's Massachusetts Distributor of Stamps, hung from a tree on Newbury Street.
 3. Later the same day, a mob set fire to Oliver's property and hurled stones at his house. Before the evening, a mob burned Oliver's property on Kilby Street, then moved on to his house. British authorities, facing an angry and growing mob, stood aside.
 4. Within several months, each of the colonies proudly boasted its own Sons of Liberty, leading boycotts against British goods and refusing to pay the tax and inciting all lovers of liberty to do the same. Before long, the Sons of Liberty were the de facto militia throughout the colonies and, in this capacity, were largely unopposed.
- D. Addressing the Virginia House of Burgesses, young Patrick Henry, of "Give me liberty or give me death," put forth a handful of resolutions that, if passed in their entirety, would have amounted to a declaration of independence.
- III. The Tea Act of 1773 was the triggering event. In May, Parliament enacted laws to aid the East India Company, now holding 9,000 tons of unsold tea.
- A. Ironically, the aim was to allow cheap tea to be sold in the colonies.
 - B. Thanks to the Stamp Act, the move was instantly judged with suspicion and taken to be a political ploy—a kind of palliative.
 - C. Aggravating the matter, the plan would have colonial dealers largely cut out of the transactions.
 - D. Decisive action was taken:
 1. Tea delivered to New York and Philadelphia was never unloaded, the ships turned back to England.
 2. The Charleston shipment rotted on the docks.
 3. In Boston, there was staged, alas, the Boston Tea Party.
 - E. The colonists argued that taxation for the purpose of raising revenue, *without the consent of the taxed*, jeopardized the British constitution itself; that, as a law-abiding community, they had the right to determine how they would be ruled and taxed.

Essential Reading:

Bailyn, Bernard. *Ideological Origins of the American Revolution*. Cambridge: Harvard University Press, 1967.

Supplementary Reading:

Countryman, Edward. *The American Revolution*. New York: Hill and Wang, 2003.

Labaree, Benjamin Woods. *The Boston Tea Party*. New York: Oxford University Press, 1964.

Middlekauff, Robert. *The Glorious Cause: The American Revolution*. Oxford: Oxford University Press, 1982.

Questions to Consider:

1. Pitt the Elder and Patrick Henry form an "odd couple" in defending the right of the colonists to parliamentary representation. What were the core principles asserted by Pitt and Henry?
2. Given that Parliament repealed the Stamp Act, why did the colonists not take this as enough of a victory to make independence unnecessary?

Lecture Five

The Declaration of Independence

Scope: This document, which has conferred immortality on its author, is the first of its kind; a document that announces the creation of a new nation and the recognized need to provide reasons for this precipitous measure. The “decent respect” for the judgments of the world warrants a careful delineation of the considerations that render the act justifiable. As a document, it is a veritable text on the manner in which political issues are to be understood and addressed.

Outline

- I. The Declaration is unique in the annals of political history.
 - A. Never before had a new government been brought into being by a document declaring the very ends and purposes of government to be the life, liberty, and happiness of those governed.
 1. This was not a mere rehearsal of John Locke’s political philosophy. Indeed, at the level of philosophy, such principles had been in place since the time of the Athenian democracy.
 2. Jefferson, in a letter to Henry Lee, would note that the core principles could be traced to Aristotle and Cicero, long before Locke.
 3. What was unique, then, were not the principles themselves but their official incorporation into a document announcing the creation of a new nation.
- II. The Declaration was the culmination of initiatives already taken in the colonial assemblies.
 - A. On December 6, 1775, the American Congress had declared itself no longer under the authority of the British Parliament.
 - B. The following May, Congress is found urging the formation of a new government.
 - C. The colony of North Carolina, on April 12 of 1776, officially instructed its delegates to Congress to work toward independence.
 - D. Virginia, on June 7, passed the specific resolution that, “These united colonies are, and of right ought to be, free and independent States.” The motion was introduced in the American Congress by Richard Henry Lee and was promptly seconded by John Adams.
 - E. On June 12, 1776, George Mason (1725–1792) presented his Virginia Declaration of Rights, unanimously adopted by the Virginia legislature meeting in Williamsburg.
 1. Mason had an important influence on Jefferson.
 2. Mason’s document declared, “All men are by nature equally free and independent, and have certain inherent rights,” these including what Mason referred to as “pursuing and obtaining happiness.”
- III. “In Congress, July 4, 1776, The Unanimous Declaration of the thirteen united States of America” —does July 4 really mark the birth of American independence?
 - A. Richard Henry Lee presented the Declaration to the Continental Congress on June 7, 1776. “Let this happy day give birth to an American republic.”
 1. As amended by Franklin and Adams, the draft Declaration is presented to the Continental Congress on June 28. Between this date and July 4, there would be 86 amendments to the draft.
 2. New York did not vote on July 2 and did not declare its support for the document until July 15. Pennsylvania and Delaware cast divided ballots.
 - B. The 56 signatories include persons who were not present when the document was adopted, and there are other names of those who supported it but were not present for the signing.
 - C. The adopted version of July 4 was signed only by John Hancock.
 - D. The authorized document itself, with all 56 signatures was not made available in the form of widely distributed printed copies until January 1777.
 1. But it was indeed on July 4 that the Declaration was printed by John Dunlap in Philadelphia, and the “Dunlap Broadside” would be the first public presentation of the Declaration.
 2. On July 6, the *Pennsylvania Evening Post* published it in its entirety.

3. General Washington ordered it read before the army on July 9 in New York.
 4. July 19 is the official day of signing; the Declaration was now unanimously adopted.
- E. The signers knew the magnitude of their actions and revealed their unique personalities at the time.
1. Franklin declared, "Indeed we must all hang together, otherwise we shall most assuredly hang separately."
 2. John Hancock, the wealthy merchant who now had a substantial reward placed on his head (500 GBP), signed in very large letters so that, he said, the king "could now read his name without glasses and could now double the fine."
 3. At 60 years of age and in less than perfect health, Rhode Island's Stephen Hopkins announced, "My hand trembles, but my heart does not."
- IV. Notable among deletions from the first draft are all references to slavery and the slave trade.
- A. The committee appointed to draft the Declaration included Thomas Jefferson, John Adams, Benjamin Franklin, Roger Sherman, and Robert Livingston. None of them was sympathetic to the institution of slavery.
 - B. Adams might well have composed the final draft but thought it would be better coming from Jefferson, Adams's reputation for scholarly peevishness potentially telling against acceptance.
 - C. The denunciation of slavery would cost the union the support of southern colonies.
- V. All men are created equal.
- A. Was this political rhetoric or the foundation for a theory of justice?
 1. In that mythic "state of nature," absent all political institutions, there is no authority ruling over persons except those imposed by the requirements of survival itself.
 2. Under these conditions, each person stands as an equal to any other in the need and the quest for security, food and shelter, protection.
 3. Entering into political and social compacts, persons take on duties and are held accountable to the rule of law, this rule presupposing relevant equality of mind and will.
 - B. Just what is the "pursuit of happiness"?
 1. Locke's "property" as a basic right is not included.
 2. A basic right to property surely would have given slave-owners more than the Declaration was prepared to promise.
 3. Life and liberty are the instrumental necessities for that authentic, self-directed life that is central to human dignity.

Essential Reading:

Ellis, Joseph. *American Sphinx: The Character of Thomas Jefferson*. New York: Alfred Knopf, 1997.

Maier, Pauline. *American Scripture: Making the Declaration of Independence*. New York: Alfred Knopf, 1997.

Supplementary Reading:

Raphael, Ray. *A People's History of the American Revolution: How Common People Shaped the Fight for Independence*. New York: Perennial Books, 2002.

Questions to Consider:

1. In what respects did the founders regard all men as "equal"?
2. Jefferson's early draft of the Declaration heaped blame on George III for his part in supporting the slave trade. Why was this portion deleted from the final version?

Lecture Six

The Royalist View of the Revolution

Scope: In the colonies and Great Britain, there were thoughtful and principled positions that would cast the American Revolution as but a rebellion against the rule of law. How the Revolution was seen from this perspective sheds light on debates in the colonies as to the nature of political authority, as well as the authority of history and tradition.

Outline

- I. The Royal Governor of Massachusetts, Thomas Hutchinson, probably reflected the judgment of most members of the British Parliament, as he failed to reflect the sentiments of his fellow Americans. His stated judgments were addressed, point by point, by John Adams and, thus, provide a summary of the principles that divided Royalists and Whigs.
 - A. Addressing the Massachusetts General Assembly in 1773, Hutchinson reminded all of the original charters, which subjected the colonies to the authority of Parliament.
 1. Adams's reply to the proposition was simply to note that royal charters were themselves beholden to constitutional principles that, if violated, liberated the king's faithful servants from fidelity to those charters.
 2. Those same charters referred to understandings "not repugnant to the Laws of England" and conformable to the requirements of reason.
 - B. Hutchinson asked pointedly whether by merely establishing a colony at a distance from England, Parliament had relinquished the authority it possessed in the homeland.
 1. Adams was quick to reply that legitimate authority would not be lost by such a relocation, but the authority in question never existed in the first place, so nothing at all was "lost."
 2. Adams cites the words of the General Court of the Massachusetts colony as early as 1676, ruling that only that court establishes the laws that govern the colony.
 - C. Hutchinson cites nothing less than feudal precepts according to which all lands are held mediately or immediately by the Crown, this the very sense of feudal tenure.
 1. Adams wonders whether the governor would restore all aspects of that feudal system that historians now characterize as fostering "a State of perpetual war, anarchy and confusion."
 2. "The Law of Nations is or ought to be founded on the Law of Reason."
 3. The pain caused by parliamentary actions against the colonies calls for remedies and cannot be shielded by reverence for law. Adams quotes Hugo Grotius: "Private war may be lawfully waged. It is not repugnant to the law of nature for anyone to repel injuries by force."
 - D. *Imperium in Imperio* is, indeed, a contradiction. More astute writers than Governor Hutchinson, such as Daniel Leonard, argued that there can be but a single sovereign power in any state, and in America, that would either be the king in Parliament or the colonies, but not both. America is either part of the British Empire or it is not.
 1. Granting as much, the authority of Parliament is nonetheless an authority conferred by those who are represented in Parliament, and the colonists are not.
 2. Absent representation, there is no voice of opposition or debate.
 3. Properly understood, *empire* does not apply to Britain. It is a constitutional monarchy. Americans are not "to be conjured out of our senses by the magic of the words 'British empire.'" As taught by Aristotle, Livy, and others, it is a *republic* that is a government of laws and not men. Therefore, the British constitution is a republic with the king as first magistrate—thus, bound by law.
 - E. The authority of kings is by way of divine authority, Scripture itself commanding loyalty to those appointed by God to further the common good.
 1. This entire line of reasoning had been exposed to scrutiny by Locke, but John Adams believed that the published *Discourses* of Jonathan Mayhew were an even greater counter.
 2. In his 1750 *Discourse* concerning obedience to higher authorities, Mayhew noted that the words of the apostle are neutral as to the particular form of civic authority—monarchial, republican,

democratic—but specifically referred to those whose charge was to secure the good of the community. Moreover:

What unprejudiced man can think, that God made ALL to be thus subservient to the lawless pleasure and phrenzy of ONE, so that it shall always be a sin to resist him! Nothing but the most plain and express revelation from heaven could make a sober impartial man believe such a monstrous, unaccountable doctrine, and, indeed, the thing itself, appears so shocking—so out of all proportion, that it may be questioned, whether all the miracles that ever were wrought, could make it credible, that this doctrine really came from God.

- II. After the outbreak of hostilities, but with the American cause seemingly hopeless, the Crown was willing to extend blanket pardons in return for loyalty.
 - A. The government headed by William Pitt (1708-78) was not successful in dealings with the colonies, and Pitt's own spirit of cooperation with America cost him favor with the king.
 - 1. Grenville's tax policies, which so embittered the colonists, finally cost Grenville his own office, but colonial reaction to those policies convinced many that America was in open rebellion against the rule of law itself.
 - 2. In the face of criticism for the Stamp Act, which had led to threatened boycotts of all British imports, Grenville insisted on the right and power of Parliament to tax the colonies.
 - 3. Pitt himself argued for greater conciliation and even sided with the colonies on a number of points of dispute with the king. He spoke with power and authority against the Stamp Act and had much to do with its repeal.
 - 4. Though successful in securing British victories in the Seven Years War, Pitt's credit finally fell with the king, as well as with the aggravation of his own personal health.
 - B. The decision in Britain was to combine great shows of strength with an offer of pardons to those who would behave themselves!
 - 1. General William Howe and his brother, Lord Richard Howe, moved a force of 10,000 to Staten Island, New York, on July 2.
 - 2. With 300 supply ships, there was no doubt but that the forces were to be deployed, if necessary, for the duration.
 - 3. The process continued until a full force of 32,000 had landed.
 - 4. On November 13, 1776, Howe announced a general pardon available to all who would take a loyalty oath to George III.
- III. The prevailing attitude toward the colonists was one of contempt, when it was not that of curiosity and even bewilderment. The attitude of the military was generally belligerent and, finally, warlike.
 - A. "The shot heard round the world" was fired at Lexington on April 19, 1775.
 - 1. General Thomas Gage, military governor of Massachusetts, had been ordered to destroy the arms depot of the "rebels" in Concord.
 - 2. To keep the mission secret, Gage had Lieutenant Pitcairn cross the Charles River late at night—but, of course, Paul Revere had tracked these forces and had alerted every town along the way.
 - 3. Facing the rudely dressed and lightly armed colonial militia, British forces, hearing a shot fired by someone (it is unclear to this day who fired first), then fired directly into the assembly, killing 8 and wounding 10, the balance retreating into the woods.
 - 4. British forces, now heading back to Boston, then faced scattered militia, firing on them from various locations. British casualties ran to 20 percent and led directly to the British attack on Boston itself. Thus did the first encounter end in anger, fear, and the promise of a fight to the end.
 - 5. The Continental Congress, a month after Lexington, chose George Washington to head the Continental forces. He was 43 years old and had command of no more than 8,000 troops, poorly trained, poorly organized, and not especially eager to face forces five times larger in number. Washington refused pay for his services.
 - B. Contempt was next directed at Washington, the enemy having little sense of the character of the man.

1. Howe, having moved troops from Boston to New York and seeing that Washington had brought forces for the defense of New York, extended a mock offer of peace, addressed to “George Washington, Esq.”
 2. Washington refused even to read the letter.
 3. A second letter addressed him as “George Washington, etc., etc, etc.” and was, of course, returned to sender, unread.
 4. Hearing that there was again the offer of a general pardon, Washington’s historic reply was: “For what?”
 5. When final victory was his, George Washington probably could have installed himself as the head of any government the American people proposed. But, the battles won, Washington resigned his commission, stating: “I did not fight George III in order to become George I.”
- C. Washington’s victories were slow in coming, but a decisive one gave him and his cause much needed standing.
1. His forces were humiliated in their first major engagement with the British in New York in 1776.
 2. His retreat through New Jersey and into Pennsylvania appeared to many to be a sign of ultimate defeat.
 3. Large numbers now accepted the terms of general pardon and large numbers also defected. Washington’s ragged army sought refuge at the Delaware River, with winter settling in and with the British under Howe engaged less in a battle than in a rout.
 4. At 6:00 P.M. on Christmas day, some of his troops with feet covered in towels rather than boots, Washington led 2,400 across the Delaware River, the full journey complete by 3:00 A.M.
 5. Washington defeated the Hessians at Trenton and, with cunning and gallantry, finally won the battle of Princeton, as well. This was not the beginning of the end—not with Valley Forge still in the future—but it was the end of the beginning, and everyone knew it. The unbeatable British armies were beatable.

IV. George III on the loss of America reveals a very different perspective as to what was owed to whom.

- A. Written at some time in the 1780s, the letter of George III summarizes the king’s understanding of the relationship that had obtained between Crown and the colonies:
- America is lost! Must we fall beneath the blow? Or have we resources that may repair the mischief?...A people spread over an immense tract of fertile land, industrious because free, and rich because industrious, presently became a market for the Manufactures and Commerce of the Mother Country. An importance was soon generated, which from its origin to the late conflict was mischievous to Britain, because it created an expense of blood and treasure worth more at this instant, if it could be at our command, than all we ever received from America. The wars of 1744, of 1756, and 1775, were all entered into from the encouragements given to the speculations of settling the wilds of North America.
- B. And then, with prescience and some good sense, the king goes on to say, “This comparative view of our former territories in America is not stated with any idea of lessening the consequence of a future friendship and connection with them; on the contrary it is to be hoped we shall reap more advantages from their trade as friends than ever we could derive from them as colonies.”

Supplementary Reading:

Brown, Wallace. *The Good Americans: The Loyalists in the American Revolution*. New York: Morrow, 1969.

Crary, Catherine S. *The Price of Loyalty: Tory Writings from the Revolutionary Era*. New York: McGraw Hill, 1973.

Questions to Consider:

1. What were the main arguments of a principled nature advanced by the Royalists against the claims of those arguing for independence?
2. What was the attitude of George III toward the newly established and independent nation of the United States?

Lecture Seven

The Articles of Confederation

Scope: The “articles” were the product of danger and emergency, principles for joint action among the colonies for the express purpose of waging a war of independence. The basic precepts are of interest in that they have features common to many nation-states, both ancient and modern. They are of interest, too, in that they were wholly incapable of guiding the governance and political destiny of a free people.

Outline

- I. Written in 1777, the Articles of Confederation were in effect from 1781 to 1788 and had seen the new nation through the most perilous times.
 - A. The Articles effectively established the nation, as per Article I: “The Stile of this Confederacy shall be ‘The United States of America.’”
 1. The Articles guaranteed the fullest and most candid discussions and debates among the representatives, by sparing them the prospect of punishment of any sort for their speech. This section of Article V is relevant:

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress, and the members of Congress shall be protected in their persons from arrests or imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.
 2. Through Article IV, common citizenship was established:

The better to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall have free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce...
 3. Though its efficacy proved to be limited, Article IX did signify the unity of the colonies under a central authority having the power to resolve such differences as might otherwise lead to wars between the states: “The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more States concerning boundary, jurisdiction or any other causes whatever.”
 - B. Though the Committee appointed to the task by the Second Continental Congress proposed a strong central government, there was, at the time, a great fear of central authority.
 1. Thus does Article II leave no doubt as to the limitations on the central government: “Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled.”
 2. Nearly four years elapsed, with many amendments made, before the 13 colonies ratified the articles, the last one being Maryland.
 3. There was significant disagreement on the question of representation, the less populous colonies seeking parity with the largest and the largest fearful that they would take the lion’s share of the mounting national debt.
 4. Article V sets the ratios for proportional representation but then restricts every state to but one vote on matters pertaining to the United States: “No State shall be represented in Congress by less than two...In determining questions in the United States in Congress assembled, each State shall have one vote.”
 5. Economic issues caused disagreement between states on the border of the western frontier and those without such borders. Who would have the right to sell and earn revenue from the sale of frontier land?
 - C. The limited central government would have a single house, a congress with a member from each of the 13 states.
 1. Even with such limitations, four of the states did not ratify the Articles.

2. There was no provision for a separate judicial branch of government.
3. Each state was required to honor the judicial decisions of any of the others.
4. Congress could declare war and sell frontier property, but it could not impose taxes and any alteration in the Articles required unanimous support of the 13 states.

II. How limited can a government be and still be able to govern?

- A. Lacking the power to levy taxes, Congress depended on “donations” from the states, which were often withheld.
 1. Maintaining an army in time of war requires substantial revenues. Without the power to tax, Congress’s power to make war was largely symbolic.
 2. Article VIII stipulated:

All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State...

However, the manner in which the “common treasury” is to be stocked is, “by the authority and direction of the legislatures of the several States.”
 3. Unable to raise revenues by direct taxation, the Congress was unable to honor the national debt and, thus, to secure credit for the new nation.
- B. Against specific provisions of Article VI, states arrogated to themselves the right to make separate treaties, rejecting the power of Congress even to ratify the Treaty of Paris (1783), which presumably ended the war with Britain! Article VI states: “No State, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any King, Prince or State...”
- C. Recognizing the inability to achieve true governance through the existing Articles, the Congress called for a Constitutional Convention in 1787 for the express purpose of refining the Articles of Confederation.
- D. Thus, the burden of those who would meet in Philadelphia was quite different from the burden they ultimately took on.
- E. Yet the Articles themselves anticipated the founding of the nation, referred to in Article I as “the United States of America.”
- F. The U.S. Constitution was on the horizon.

Essential Reading:

Kurland, Philip, and Ralph Lerner, eds. *The Founders Constitution (in Five Volumes)*, vol. 1. Indianapolis: Liberty Fund, 2000.

Supplementary Reading:

Callahan, Kerry. *The Articles of Confederation: A Primary Source Investigation into the Document that Preceded the U.S. Constitution*. New York: Rosen Primary Source, 2003.

Questions to Consider:

1. What were the causes of the ultimate failure of the Articles of Confederation?
2. What was the major achievement of the Articles on the issue of slavery?

Lecture Eight

The Constitution of the United States, Part 1

Scope: In the brutally hot Philadelphia months, crowded into temporary quarters and living miles from home and hearth, a diverse and argumentative assembly met for purposes neither unified nor entirely clear. Except for Hamilton, perhaps none in the assembly actually intended to constitute a new form of government.

Outline

- I. “As the British Constitution is the most subtle organism which has proceeded from the womb and long gestation of progressive history, so the American Constitution is, so far as I can see, the most wonderful work ever struck off at a given time by the brain and purpose of man.” (William Gladstone)
- II. For all of the authority and influence the U.S. Constitution would come to have, the origins of this “most wonderful work” were problematical and subject to controversy.
 - A. Of the 13 colonies, Rhode Island refused to send delegates to Philadelphia, and those from New Hampshire did not arrive until July 23, weeks after the official signing.
 - B. The states at the time generally understood the Constitutional Convention in Philadelphia to be but one more attempt to refine the Articles of Confederation. It was not widely understood to be the venue for founding a nation!
 - C. Rhode Island’s own powerful Agrarian Party, made rich by local practices and a state currency, was not eager to support any greater degree of centralization than had been achieved by the Articles of Confederation.
 - D. Though the date of May 14 had been established for the commencement of the convention, a quorum was not reached until May 25.
 - E. Of the 70 delegates appointed by the state legislatures, only 55 finally made it to Philadelphia and only 39 finally signed the Constitution. At the time of the signing, 14 had already gone back to their respective states, and Virginia’s George Mason and Edmund Randolph refused to sign.
 1. George Mason, long a champion of individual rights, would not sign a constitution lacking a bill of rights.
 2. Edmund Randolph saw the prospects for ratification so dim as to raise the gravest fears about the inevitable tensions and conflicts that would arise within and between the states.
 3. Two of New York’s three delegates left before the Constitution was voted on, and the third—Alexander Hamilton—decided, therefore, not to sign for the State of New York.
 - F. When the work was finally completed, the great Patrick Henry asked by what right those in Philadelphia had adopted the phrase, “We the People,” instead of “We the States.”
 - G. Absent, owing to official assignments, were such key figures as John Adams (in Britain) and Thomas Jefferson (in France), and present was a worrisome diversity of delegates drawn from commerce, farming, law, and various trades and ranging in age from the 26-year-old Jonathan Dayton from New Jersey to Philadelphia’s aged sage, Ben Franklin, now 81.
- III. Within the assembly, however, were men of already sharply framed purposes, informed by history and philosophy, and instructed by the same texts.
 - A. Many in attendance had closely studied both classical and recent political treatises addressed to the nature of republics.
 1. Months earlier, James Madison had asked Jefferson to send books back from France that would permit Madison to study more closely the issues that would so engage his energies later in Philadelphia.
 2. Jefferson sent back scores of volumes, answering Madison’s request for historical and philosophical works concerned with the founding and failure of governments.
 3. As the man most worthy of the title “Father of the Constitution,” Madison prepared not only himself, but through his note taking and his respectful but relentless contributions to the debates, he was able to inform his colleagues, as well.

4. Embodied in Madison, but true of the assembly at large, was that confident spirit of the Enlightenment, placing trust in reason, acknowledging the duty to give reasons, cognizant of the need to appeal to others at the level of principle.
- B.** The election of George Washington as president of the convention altered the very atmosphere and tone of the deliberations.
1. There may well be no figure in American political history—not Lincoln, not Jefferson, not Roosevelt—who commanded respect that reached the level of outright awe to the extent that it applied to Washington.
 2. When Abigail Adams met him, she was moved immediately to quote the lines from Dryden, “Mark his majestic fabric; he’s a temple Sacred by birth, and built by hands divine...”
- C.** At the time of the convention, the thinking parts of the world were indebted to the great achievements of the Scottish Enlightenment, especially in the fields of moral philosophy and education.
1. The College of New Jersey, was made famous as Princeton by its renowned president, the native Scotsman John Witherspoon. As president of Princeton, Witherspoon (1723–1794) was a signer of the Declaration of Independence and, over a course of years, would direct the studies of a future president of the United States (Madison), 9 cabinet officers, 21 senators, 39 members of the House of Representatives, a dozen state governors, 3 justices of the Supreme Court, and many of the delegates to the 1787 Constitutional Convention.
 2. Jefferson, as a student at William and Mary; Madison, Jonathan Dayton, and Benjamin Rush at Princeton—the list is long of those fully indebted to a Scottish educational program. Such an education was as faithful to the sciences as to the classics; committed to the seamless integration of the moral, political, and human sciences; and committed to a jurisprudence based on a realistic comprehension of human nature, its needs, aspirations, and tendencies.
- D.** Though officially present “for the sole and express purpose of revising the Articles of Confederation” (as Congress had resolved the previous February), some in Philadelphia had long recognized the need to establish a government on radically new foundations.
1. As early as 1780, still in his early 20s, Alexander Hamilton would write a letter that would fill nearly 20 printed pages today, expressing the need for a newly structured government to be established by a national convention.
 2. James Madison, as well as the native Scot James Wilson, also had a clear vision as to what needed to be established in Philadelphia.
 3. Forty of the 55 had served in the Continental Congress, knew each other’s thinking, and had the benefit of a shared knowledge in the matter of the specific issues facing the new nation.

IV. What was achieved in less than 100 days?

- A.** Even the final draft, the work of months and of many, had an uncertain future.
1. Ratification by the 13 states was likely to be frustrated by the same factors that had limited the success of the original Articles of Confederation.
 2. Absent a bill of rights, there would be intense concern about the ultimate authority of a central government over the lives of citizens.
 3. The issue of taxation—an issue with a long history—would again be a burning question. The power of central government—which is opposed on any number of grounds—really should be understood as a power of taxation.
 4. Some issues simply had to be left unsettled if there was to be any hope of ratification, slavery being the most blatant.
- B.** The compromises struck—chiefly, Roger Sherman’s Connecticut Compromise, or the Great Compromise—did much to allay the fears of smaller states.
1. No issue more threatened the success of the convention than that of state representation in the legislative bodies.
 2. In a political system in which sovereignty resides in the law itself, the power of the legislature could rise to the level of the tyrannical.
 3. A legislative body formed solely on the basis of the populations of the represented states would marginalize the smaller states.

4. But a political system in which the consent of the governed is the foundational principle cannot be indifferent to claims made in behalf of proportional representation.
- C. One other major concern was the manner in which the chief executive would be chosen.
1. The history of monarchies, as seen by Americans, generated fear and suspicion of executive power, all the more when vested in one person.
 2. George Mason, realizing the profound regional differences in the new nation, thought that there should be three executives, one from the north, one from the south, and a third from the middle territories.
 3. The final vote on the resolution for a single executive was 7–3, with New York, Maryland, and Delaware voting against.
 4. Additionally, there was the fear that a few large states would “trump” the interests of the rest.
 5. The very aim of the convention was to provide a government of united *states*, thus according to each state the same political status as that enjoyed by any other.
- D. The productive arguments continued, some fearing there was no end in sight. But two years earlier, in a letter to Lafayette (July 25, 1785), Washington had made the discerning point: “Democratical States must always *feel* before they can *see*;—it is this that makes their government slow, but the people will be right at last.”

Essential Reading:

Bailyn, Bernard, ed. *The Debate on the Constitution*. New York: Viking Press, 1993.

Wood, Gordon S. *The Creation of the American Republic, 1776–1787*. Williamsburg: University of North Carolina Press, 1998.

Supplementary Reading:

Bowen, Catherine. *Miracle at Philadelphia*. Boston: Little Brown & Co., 1966.

Questions to Consider:

1. George Mason regarded the size and complexity of the current and expected states to be too great for a single executive officer (president). Was he correct?
2. What was the degree of unity of the 13 colonies as they considered sending delegates to the Constitutional Convention?

Lecture Nine

The Constitution of the United States, Part 2

Scope: The “miracle” in Philadelphia was a great achievement of mind and will, accomplished through debate, through the counsel of the wise and the discipline of enlightened self-interest. The defects were recognized at the time, but those who put their names to the draft Constitution knew that what they had produced was the most that could have realistically been achieved.

Outline

- I. Nearly without exception, delegates to the convention were realistic in their appraisals of what their fellow citizens would accept, though initially unrealistic in seeking a level of detail unlikely to be developed by a group of 55 men in a hot room.
 - A. The Articles of Confederation had shown that the written law is powerless where the consent of the governed has either been ignored or contravened.
 - 1. As South Carolina’s Pierce Butler urged, “We must follow the example of Solon, who gave the Athenians not the best government he could devise but the best they would receive.”
 - 2. Sensitive to the failures of the Articles of Confederation, the delegates soon lapsed into repetitive and, to many, tedious arguments at the level of small details.
 - B. There seemed to be some sort of gestational period during which the task of revising the Articles of Confederation metamorphosed into something radically different, the creation of a democratic republic, a national government the likes of which had never before been realized.
- II. Plan after plan was presented for approval—the New Jersey plan, the Pinckney plan, the Virginia plan—the delegates still, to some extent, blind to what they had already accepted in principle; namely, a government of three co-equal branches, so constituted as to prevent any one branch from exercising dictatorial powers.
 - A. The issue that would not be settled until the conclusion of the American Civil War was the issue that dominated the deliberations and threatened ultimate ratification. The issue was between a government consisting of independent sovereign states and a federal government comprised of united states.
 - 1. New Jersey or Virginia? William Paterson, the delegate from New Jersey, presented a plan that, at bottom, preserved the sovereignty of the individual states. He declared it to be nothing less than “not safe” for Virginia to have 16 times as many legislators as Delaware. Edmund Randolph’s Virginia plan called for a strong federal government, judged by some in the assembly as costing the states too much to be accepted.
 - 2. Lansing and Yates of New York supported the New Jersey plan enthusiastically, because it preserved the older confederation, which had the independent states dictating government policy.
 - B. The prospect of deadlock and inevitable failure provided Alexander Hamilton with an opportunity to speak his mind.
 - 1. Young and impatient, Hamilton—rather circumspect till this time—addressed the convention on June 18, making clear the respects in which the plans that had been put forth were hopelessly defective, then offering a most radical remedy.
 - 2. Allowing sovereignty to each state would simply deny necessary power to the federal government.
 - 3. Opposition to the federal government was based on reasoning far too subtle to serve the present purposes. A “federal” government is one that can take on many different forms, with many different distributions of power within, between, and among the constituent states.
 - 4. Given that the delegates had been sent to Philadelphia to address the emergencies faced by the nation, the only plan worthy of adoption was one capable of meeting those very emergencies.
 - 5. No state had within its own constitutional authority the means by which to address the emergencies.
 - 6. No state alone, or even in concert with other independent ones, could successfully defend America against committed foreign adversaries whose success would dissolve the union.
 - 7. Achieving popular support for a central government faced formidable odds: the fidelity persons have to their states, the power of demagoguery, the love of power, the seeming importance of state government relative to the rather abstract notion of a federal government.

8. Failing to achieve such centralized government and fidelity to it would mark the ultimate end of union.
- C. Hamilton then proposed a remedy so radical, yet reasoned as to earn the respect but none of the support of those assembled.
1. The executive should be elected for life and with absolute power to veto legislation.
 2. The power of the executive should be so great as to diminish the desire for any more.
 3. The national government is, thus, sovereign, not to be challenged by already large and growing states, committed to little more than their regional interests.
 4. As for popular government, the people, concluded Hamilton, “begin to be tired of an excess of democracy. And what even is the Virginia Plan but democracy checked by democracy, or pork still with a little change of the sauce?”
- III. James Madison, on the next day, taking advantage of polarities so vividly brought to light by Hamilton’s speech, was able to dissect the terms of competing plans and set the stage for the adoption of a federal constitution.
- A. For Madison, the great student of political history, the very record of history was clear since the time of ancient Greece: Independent sovereign states—the Greek city-states—inevitably fall into destructive competition and faction.
1. Nothing in the New Jersey plan could prevent one state from taking untoward actions toward another.
 2. The New Jersey plan would cost small states a disproportionate fraction of their limited resources, as each would have to pay all costs for state representatives.
 3. Concern for state sovereignty was costing the entire assembly the prospect of honoring its delegated task.
 4. Madison was convincingly supported in this by James Wilson. Wilson had observed in his earlier writings—and now pressed the point repeatedly in the convention—that the very prospect of new states and the population of new territories would require the power and coherence that only a central government could possess. Inexorably, Madison’s arguments led to adoption by the majority.
- B. Between a Hamiltonian quasi-monarchy and the Patersonian ensemble of independent duchies, Madison located a plausible, effective national government whose powers were defined and constrained by the ultimate sovereign, the U.S. Constitution.
- C. Even as the general principles were accepted, confusion and rancor arose over the particulars.
1. Three months into their deliberations, the delegates still argued about whether the nation should have a king.
 2. On the matter of the election of the president, 60 ballots were required before the electoral system was adopted.
 3. Even the wise and stalwart Dr. Franklin, addressing George Washington, expressed doubts as to whether progress could be made without divine intervention. Franklin proposed a prayer meeting!
 4. It was left to a Committee of Detail to work out some of the particulars arising from the core precepts already adopted. The committee’s report was submitted on August 6; Madison’s vision was more or less realized.
- IV. Finally, the Committee of Style, as it was called, produced a constitution ready for adoption by the delegates.
- A. Selected for the committee were five delegates who were very much committed to the national model of government.
1. Chairing the committee was William Samuel Johnson, the philosophically tutored president of Columbia University and a man of generous and eclectic intellect.
 2. His four colleagues were Alexander Hamilton, perhaps the most prescient of the founders in anticipating the needs of an inevitably large and prosperous republic; Gouverneur Morris, whose insertion of the phrase “We the People” located sovereignty itself not in states but in citizens of one United States; Rufus King, the great orator and elegant lawyer from Massachusetts, who would have had the Constitution outlaw slavery in the northwest territories; and James Madison, to whom there is the greatest debt for the Constitution as later ratified.
- B. There were before the Committee of Style some 23 resolutions passed in various forms. These were to be honored but arranged and worded in a manner fit for public comprehension and judgment.

1. No preamble had been given to the committee, and it was again Gouverneur Morris of Pennsylvania who drafted one:

We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

2. Contrary to provisions in a number of state constitutions, there was Article IV's clear wording: "...no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States."
3. But the part of Article VI that settled matters as finally as they could be set, until the fateful year 1861, included these words:

This constitution, and Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

- C. September 17 was the final day of the convention. The draft now ready for the vote, there was time for Dr. Franklin to offer his own reflections to a weary and, yes, still wary assembly: "...On the whole, Sir [addressing Washington], I can not help expressing a wish that every member of the Convention who may still have objections to it, would with me, on this occasion doubt a little of his own infallibility, and to make manifest our unanimity, put his name to this instrument."

Essential Reading:

McDonald, Forrest. *E Pluribus Unum: The Formation of the American Republic, 1776–1790*. Indianapolis: Liberty Fund, 1979.

Supplementary Reading:

Frohnen, Bruce, ed. *The Anti-Federalists: Selected Writings and Speeches*. Lanham, Maryland: Regnery, 1999.

Questions to Consider:

1. Respond to the claim that those at the Constitutional Convention were unrealistic idealists, seeking to base a government on abstract principles.
2. What rationale can defend Rhode Island and Texas having the same number of senators in the federal Congress?

Lecture Ten

Publius

Scope: The 85 *Federalist Papers* composed by Hamilton, Madison, and Jay comprise the most detailed and analytical arguments for and against governance as envisaged by the Constitution. How might a minority voice be audible and even influential under rule by a majority? What are the sources of faction, and how are these to be reconciled peaceably? What assumptions regarding the nature of human nature itself are warranted by history and by common sense, such that a realistic mode of governance might be brought about for such a nature?

Outline

- I. The prospects for the ratification of the new Constitution were less than bright.
 - A. The secrecy of the Philadelphia Convention had a double effect.
 1. By preserving the confidentiality of the daily deliberations, Washington was able to spare the delegates the pressures that would have been brought to bear by partisans, newspapers, and hometown constituents.
 2. This same confidentiality created general suspicion, followed by waves of shock when the drafted Constitution was made public.
 - B. The issues and reservations expressed and examined in the convention itself were suddenly revived throughout the nation, often in terms of violent protest. The claims against the document were basic:
 1. The powers of the proposed national Congress were so clearly at the expense of the sovereignty of the individual states that the whole point of the Revolution had been traduced.
 2. Trickery was charged over the very wording of the letter of transmittal: The Constitution submitted to Congress was sent with the words “Unanimously resolved.” But Henry Lee quickly protested that the unanimity referred solely to the decision to send the document, not to its contents, which had been shaped by “...monarchy men, military men, aristocrats and drones, whose noise, impudence and zeal exceed all belief.”
 3. Congress itself, in charging state legislatures with the task of considering ratification only a week after receipt of the Constitution suggested, too, that something mischievous was afoot.
 - C. In state after state, Anti-Federalist forces were united and committed to the defeat of ratification.
 1. Those who had opposed a strong national government before the Constitutional Convention were not persuaded to change their minds by anything that appeared in the Constitution.
 2. The proposed federal Constitution was in conflict everywhere with state constitutions that had been developed through debate and compromise and had enjoyed the support of the citizens and legislatures of the states.
 3. The Pennsylvania legislature included a sufficient number of Anti-Federalists such that their refusal to attend early ratification proceedings effectively precluded a quorum.
 4. That a mob then dragged legislators to the chambers in order to establish a quorum was less a victory for Pennsylvania’s Federalists than a measure of the passions aroused by the proposed Constitution.
- II. Pennsylvania was a key state in the matter of ratification, and the process in Pennsylvania illustrates much about the progress made elsewhere toward ratification.
 - A. Two of the most able men in America led the cause of Federalism; James Wilson and Benjamin Rush.
 1. Wilson was a native Scot and the faithful student of Scottish Common Sense philosophy.
 2. Rush had earned his medical education at Edinburgh and had been instrumental in bringing Witherspoon to Princeton.
 3. Both were men respected for keen intelligence.
 - B. William Findley’s eloquent critique in the Pennsylvania House declared the Constitution to impose a consolidation rather than preserve a confederation.
 1. Wilson, insisting on the precise use of language, replied that the very point of the Constitutional Convention was, indeed, to consolidate the states and, thereby, to secure “...our very existence as a nation.”

2. Absent the degree of “consolidation” provided by the Constitution, there could be no remedy for the interminable disputes between states on matters of trade, boundaries, revenues for the national defense, and so on.
 3. That a strong national government would result in diminished interest in the political life of the state, as claimed by Anti-Federalists, was, on Wilson’s account, something positive. Those who would participate chiefly out of selfish interests “had better stay away; the public will not suffer any disadvantage from their absence.”
- C. On December 12, by a vote of 46 to 23, Pennsylvania ratified the Constitution, six days after it had been unanimously ratified by Delaware.
 - D. With one large state and one small one signaling support, the general sentiment now swung visibly in favor of ratification.
- III. *The Federalist Papers*, as they came to be called, were not a significant source of support for Federalism but did establish the philosophical and political principles on which Constitutionalism itself is to be understood.
- A. Alexander Hamilton, knowing that New York would prove to be difficult to win over, especially in light of Governor George Clinton’s opposition, took the case to the public.
 1. Hopeful that he would be joined by a number of distinguished defenders of Federalism, Hamilton was able, in the end, to secure the participation of only two, but surely the “right” two: James Madison and John Jay. Hamilton at the time was 32; Madison was 36; and Jay was 42.
 2. The most senior, Jay, had worked directly with John Adams and Benjamin Franklin on the Treaty of 1783, which concluded the war with Britain, and was the major figure in the drafting of New York’s own constitution.
 3. Madison, of course, was the very embodiment of the federal Constitution. No one was more qualified to defend it before a readership drawn from the general public.
 4. And Hamilton, less than effective as a delegate, would now prove to be the “political science professor in residence” as the Constitution’s core principles were to be explained and defended.
 - B. Authorship was anonymous and the contributions were unequal, the influence difficult to measure.
 1. A total of 85 letters appeared over the name “Publius.”
 2. Hamilton wrote at least 51 of the letters; Madison, 26; and Jay, 5, with several probably jointly produced by Hamilton and Madison.
 3. Collectively, the *Federalist* essays addressed with precision and uncommon intelligence the central questions regarding regimes of law and justice and, thereby, provided the more studious and more influential citizens with refined arguments against Anti-Federalist opponents.
 - C. Running to some 500 pages of print, *The Federalist* resists compression, but the most salient conclusions convey the nature of that “seminar” conducted in print from October of 1787 until May of 1788:
 1. No. 1 (Hamilton): “...whether societies of men are really capable or not of establishing good government from reflection and choice, or whether they are forever destined to depend for their political constitutions on accident and force.” Note that the question itself reaches humanity at large and is not confined to 13 American jurisdictions in the 18th century.
 2. No. 5 (Jay): “A divided nation invites external and hostile interests ready to exploit the divisions.”
 3. No. 6 (Hamilton): “Men are ambitious, vindictive and rapacious,” their pursuit of selfish and local interests finally inclining them toward hostility with neighbors. Absent the constraints and powers of a central government, the separate states would inevitably fall into conflict. Alas, “Sparta, Athens, Rome and Carthage were all Republics,” their fates sealed by internal faction and the absence of a unifying, central power.
 4. No. 10 (Madison): Against the claims of the Anti-Federalist “Agrippa” (that no large empire can be governed by a central authority without lapsing into despotism), Madison would argue that the greatest advantage of union is, in fact, “its tendency to break and control the violence of faction.” Faction is this: A compact entered into by some, actuated by a common passion or interest, “adverse to the rights of other citizens, or to the permanent and aggregate interests of the community.” Differences in the very natural faculties of persons lead finally to differences in the acquisition and in the valuing of property of all kinds. Reason and self-love conspire to create a disposition to favor one’s own interests over those of others. “The latent causes of faction are thus sewn in the nature of man.” As the causes of faction cannot be removed, the effects must be controlled. Simple, direct democracies cannot do

- this, because they are unable to control the effects produced by a mischievous majority or the spread of mischief by a minority. A republican government with centralized legislative power is better fit to measure and secure the interests of the whole and is far less liable to manipulation by the factious few.
5. No. 15 (Hamilton): Standing in the wider world requires nationhood. What the “sovereignty” of the 13 states has produced—which is to say, “the imbecility of our government”—are ambassadors who are “mere pageants of mimic sovereignty.”
 6. No. 23 (Hamilton): National defense calls for a national government. Means must be proportioned to ends.
 7. No. 37 (Madison): There has never been a “perfect” political system or document, and one is not to be expected. The Constitutional Convention was blessed by a minimum of party faction and mere self-interested quibbling. It produced a work at once original and suitable unto the purposes of government.

When we pass from the works of nature, in which all the delineations are perfectly accurate and appear to be otherwise only from the imperfections of the eye which surveys them, to the institutions of men, in which the obscurity arises as well from the object itself as from the organ by which it is contemplated, we must perceive the necessity of moderating still further our expectations and hopes from the efforts of human sagacity.

8. No. 51 (Madison): The separation of powers is the essential safeguard against the tyrannical tendencies of government. It is always possible for some sort of cabal to be entered into by two of the three branches against the third, but this is made ever less likely when the members of each department have the constitutional means by which to resist encroachments. Political power arises ultimately from the people—this is as much a principle as a fact—but this power, too, needs to be regulated, the effects of faction reduced. With the Constitution, the delegation and balancing of powers is the means by which to achieve this. It is through the very diversity of sects and interests, the diversity of desires and inclinations within the larger society that the individual’s rights are protected from the formation of factions that would oppose them.
9. Nos. 78 and 79 (Hamilton): The judiciary holds neither the purse nor the sword and, thus, relies solely on judgment.
10. No. 84 (Hamilton): Why no Bill of Rights? “The truth is, after all the declamations we have heard, that the Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS.”

IV. On this last point, *The Federalist* was unconvincing and out of touch with the people. If there was to be ratification, there was to be a bill of rights.

Essential Reading:

Hamilton, Alexander, James Madison, and John Jay. *The Federalist Papers*. New York: Mentor Books, 1999.

Supplementary Reading:

Sheehan, Colleen, and Gary McDowell. *Friends of the Constitution: Writings of the “Other” Federalists, 1787–1788*. Indianapolis: Liberty Fund, 1998.

Questions to Consider:

1. Cite three considerations on which the Anti-Federalists based their opposition to the proposed Constitution.
2. What was Madison’s argument regarding the “faction” and a strong national government?

Lecture Eleven

With Liberty and Justice for All

Scope: Ratification of the Constitution was, to some extent, hostage to the missing bill of rights. The reasons why the Constitutional Convention had not seen fit to include such a bill are interesting in their own right, but ultimately, the inclusion of such a bill would determine ratification. Once set forth, however, the Bill of Rights, which simply underscored the evil of slavery, is a veritable contradiction of the American ideals, the very vice that must poison a “republic of virtue.” How did the founders understand this central institutional fact of colonial economy and that genteel form of life for which the South was so widely admired? And what might the issue of states rights tell the contemporary world as it sets about to form communities of nations?

Outline

- I. John Adams drafted the Constitution for the Commonwealth of Massachusetts in 1779.
 - A. Adams’s political writings were, perhaps, the most closely argued and historically informed of all the works produced in the years leading up to the Constitutional Convention. Benjamin Rush declared him to be the most erudite of the signers of the Declaration of Independence.
 1. Adam’s *Novanglus* letters of 1774 were widely regarded as the most successful rebuttals to claims made on behalf of parliamentary and royal authority in the colonies.
 2. His 1776 *Thoughts on Government* was the template used by four states in drafting their state constitutions, and his defense of the independence of the judiciary was a central part of his constitutionalism.
 - B. The Massachusetts Constitution, copied in substance by other states, contained the following key provisions:
 1. The body politic is a social compact between the individual and the collective; a voluntary association grounded in the understanding that:

all men are born equally free and independent, and have certain natural, essential, and unalienable rights, among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing and protecting their property; in fine, that of seeking and obtaining their safety and happiness.
 2. The Constitution further makes clear that all political power originates with the people, of whom officials are but their agents and “at all times accountable to them.”
- II. The Anti-Federalists, finding the Constitution silent on just these principles, urged states to withhold ratification. Why had the Constitutional Convention failed to provide a bill of rights?
 - A. Because eight of the states already had constitutions with bills of rights included, some regarded the attachment of the same to the federal Constitution to be unnecessary, impossible to enumerate, beyond the reach of a central government, and finally, not in the gift of such a government.
 1. Given that the Constitution was designed to limit government, it seemed to some unnecessary to grant to citizens rights that the federal government had no power to withhold in any case.
 2. James Wilson noted that any attempt to enumerate all the rights enjoyed by citizens would be as impossible as it would be ridiculous.
 3. Noah Webster spoke for many when he sarcastically added to proposed bills of rights that, “Congress shall never restrain any inhabitant of America from...lying on his left side, in a long winter’s night, or even on his back, when he is fatigued by lying on his right.”
 - B. To some extent, the defenders of the Constitution had misjudged the importance the general public would place on a bill of rights and the ease with which popular enthusiasms could be recruited around this point.
 - C. It soon became clear that ratification depended on such amendments.
 1. Massachusetts, guided by Samuel Adams, resisted ratification until amendments were adopted, these so effectively proposed by John Hancock. Anti-Federalists sought to block the initiative on the

grounds that Massachusetts had not been given the power of amendment, but the amendments were incorporated and the Constitution thus amended was ratified—by the narrow margin of 187–168.

2. Virginia, too, is illustrative. The influential governor Edmund Randolph, who had refused to sign in Philadelphia, declared in the Virginia ratification congress that he would again refuse—except that amendments were promised. With the promise of these amendments, he would support the Constitution. In Virginia, Randolph’s support was decisive. In the United States, Virginia’s ratification was decisive.
3. With the prodding and rhetorical instigations of Patrick Henry, the Virginia legislature first amended the draft Constitution, adding a Declaration of Rights, and, by a vote of 89 to 79, then adopted the Constitution. This was a crushing defeat for the Anti-Federalists but a victory for their demand for a bill of rights.
4. Ratification in New York won by three votes and may well have failed had the outcome in Virginia been different.

III. Volumes have been devoted to the issue of human rights, many taking the notion to be a merely political one, others grounding them in human nature itself.

- A. The first 10 amendments to the Constitution are not “original” and were not judged by any to be original.
- B. The founders, and here are included those who wrote and led and legislated for decades before the Constitutional Convention, were the students of many texts and not chiefly those written by John Locke or Montesquieu.
- C. The very core of Christian theology was, of course, that “universal brotherhood” arising from the Father of all and the redemptive sacrifice of his son. There is simply no way to derive the words and works of the founders while ignoring the basic religious precepts to which they were nearly unanimously committed.
- D. This is in vivid evidence in the First Amendment, which prevents the federal Congress from legislating an established or national religion.
 1. It is *Congress* that cannot make such law, which is to say that there will not be a “national religion.” Interestingly, no one saw fit to prevent a given state from establishing a state religion, though most state constitutions had established the right of every individual to worship according to his own conscience.
 2. However, the national consciousness has changed since the time of the founding; there is simply no room for dispute as to the commitment of the founders to prevent government from interfering in any way whatever with the free and full expression of religious faith, conviction, and fidelity. The maxim in today’s idiom would be *hands off completely*, and this would surely apply to any measure by which the federal government would either require or in any way discourage prayerful practices.
 3. Locke’s *A Letter Concerning Tolerance* (1689), even while declaring that the magistrate’s power does not extend to the “establishing of any articles of faith,” nonetheless may “draw the heterodox into the way of truth, and produce their salvation.” And Locke’s writing comes long after each of the colonies had declared themselves not only committed to Christianity but also prepared to punish blasphemy with death.
 4. No less a radical and revolutionary than Tom Paine would declare: “As to religion, I hold it to be the indispensable duty of every government to protect all conscientious professors thereof, and I know of no other business which government hath to do therewith.”
- E. Speech and press freedoms were not only not absolute at the time of the founding but were narrowly understood even a half-century later.
 1. The Supreme Court in *Updegraph v. Commonwealth* (1824) considered whether religious liberty was abridged by an indictment for blasphemy. Clearly, the commonwealth did not have the right to impose an orthodox faith, but blasphemy itself was understood as having untoward social consequences. And, by such practices, “no one pretends to prove any supposed truths, detect any supposed error, or advance any sentiment whatever.”
 2. Only over a course of years did freedom of speech and of the press come to include utterances and modes of conduct utterly unconnected from matters of clear moral, political, and civic consequence.

- F. Blackstone himself had declared “the right of self-defense” to be “the first law of nature,” and there was strong sentiment among the generation of founders that a well-armed militia could be needed “at the ready.” Would that Washington himself have had such an army at Valley Forge.
 - G. The succeeding amendments granted the rights: to protection against the requirement to quarter soldiers in time of peace (Amendment III); to be secure in one’s person, one’s house, papers, and effects (Amendment IV); to be spared prosecution for the same offense twice or called upon to assist the government against oneself, to be entitled as well to a speedy trial (Amendments V, VI) and to a trial by jury (Amendment VII); and to be spared excessive bail, excessive fines, and cruel and unusual punishment (Amendment VIII).
 - 1. Responsive to the fear that in the very enumeration of rights, the Constitution would limit them, the Ninth Amendment provides that such an enumeration “shall not be construed to deny or disparage others retained by the people.”
 - 2. Responsive to the fear that federal power is at the total expense of the powers of the states, the Tenth Amendment provides that “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or the people.”
- IV. In *Dred Scott*, Justice Taney declared, perhaps all too correctly, that he could not find in the Constitution of the United States any right a black man has that a white man is bound to honor. But the founders had not ignored the problem.
- A. The most important legislation passed by the Continental Congress, for all its limitations, was the Northwest Ordinance of 1787, which prohibited the extension of slavery into the western territories.
 - 1. The ordinance included provisions that comprised a bill of rights.
 - 2. It established the equal standing of any new states emerging from the western territories, thus precluding an aristocracy of the original 13.
 - 3. In Article VI, it expressly and unequivocally forbade the importation of slaves into the new territories. But the same article promised to return fugitives to their lawful owners:

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted: Provided, always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service as aforesaid.
 - B. In *Federalist* No. 42, Madison speaks of the agreement to postpone the prohibition of the importing of slaves until 1808, wishing that it could be immediate. Yet, “It ought to be considered as a great point gained in favor of humanity that a period of twenty years may terminate forever, within these States, a traffic which has so long and so loudly unbraided the barbarism of modern policy...”
 - C. If there was to be a Constitution at all, ratification by the southern states was essential, and this required a compromise on the divisive issue of slavery.
 - 1. Northern states agreed to keep the import tax on slaves below \$10 on the head and that slaves could be counted for purposes of taxes and representation, each slave counted as three-fifths of a freeman.
 - 2. The southern states, in turn, agreed that all importation of slaves would end in 1808. This did *not* carry any implication for emancipation; quite the contrary.
 - 3. The very timetable did much to increase the slave trade, there being as many slaves imported in 1780 as in all the prior years combined.
 - 4. Realists, as they were wont to regard themselves, eschewed issues of morality, contending that matters of trade and self-interest are the grounding of politics. If a unified nation is the goal, slavery goes with it.
 - 5. George Washington was among the more illustrious of Americans who found little to recommend in notions of racial inferiority. His correspondence in 1776 with Phillis Wheatley found him commenting on her “poetical Genius” and, of course, making no mention of race at all. But the institution was larger than persons.
 - 6. George Mason got to the heart of the matter: “Every master of slaves is born a petty tyrant; they bring the judgment of heaven on a country.” And so they did...
 - 7. Inimitably, and before most, Tom Paine had put the sinful practice in perspective. In 1775, he wrote this in the *Pennsylvania Journal and Weekly Advertiser*:

To Americans...That some desperate wretches should be willing to steal and enslave men by violence and murder for gain, is rather lamentable than strange. But that many civilized, nay, christianized people should approve, and be concerned in the savage practice, is surprising; and still persist, though it had been so often proved contrary to the light of nature...But to go to nations with whom there is no war, who have no way provoked, without farther design of conquest, purely to catch inoffensive people, like wild beasts, for slaves, is an hight of outrage against Humanity and Justice, that seems left by Heathen nations to be practised by pretended Christians. How shameful are all attempts to colour and excuse it... But what singular obligations are we under to these injured people! These are the sentiments of JUSTICE AND HUMANITY. (From Paine's "African Slavery in America," *Pennsylvania Journal and Weekly Advertiser*, March 8, 1775.)

Essential Reading:

Hossell, Karen. *The Bill of Rights*. Chicago: Heinemann, 2003.

Kurland, Philip, and Ralph Lerner, eds. *The Founders Constitution (in Five Volumes)*, vol. 2. Indianapolis: Liberty Fund, 2000.

Supplementary Reading:

Schneider, Dorothy, and Carl Schneider. *Slavery in America from Colonial Times to the Civil War*. New York: Facts on File, 2000.

Questions to Consider:

1. What effect, long and short range, did the Northwest Ordinance have on the institution of slavery?
2. On what grounds might one continue to oppose a bill of rights, as this was conceived by those who demanded it?

Lecture Twelve

Paine and Burke

Scope: Tom Paine was the author of the most widely read book written in the 18th century. Edmund Burke was perhaps the most powerful and insightful political mind of the age. How each saw the French Revolution, how each understood the American Revolution, makes clear the implicit tensions and the unique potentialities embedded in the ideals and institutions of the new nation.

Outline

- I. Tom Paine and Edmund Burke are illustrative of the tensions and intellectual contradictions that mark this period in history.
 - A. Both were masters of written exposition in different ways. Paine spoke to people on intimate terms and addressed them at the level of their most immediate concerns. He saw with a sometimes blinding clarity.
 - B. Edmund Burke is one of the great literary figures in the English language. His *Reflections on the French Revolution* is a classic in prose writing. Burke is ever at the level of high principle. His vision is conditioned by history; he seems to see everything from a time before Solon, maybe even from a time before Moses.
 - C. Tom Paine and Edmund Burke both saw the French Revolution. Each of them understood the American Revolution, and each saw both revolutions in radically different ways.
- II. Paine's *Common Sense* was the most controversial and influential pamphlet to fuel the cause of independence.
 - A. The title had been suggested by Benjamin Rush, but neither Rush nor the more sober founders were comfortable with Paine's style. His countrymen, however, could ask for nothing more.
 1. Paine, in America but two years before writing his classic, availed himself of sarcasm, as well as Scripture, political history, and the core precepts of rational beings to make clear that the claims of Parliament and the Crown were as empty as, by the lights of common sense, the institution of monarchies themselves were.
 2. Titles, he declared, are like a magician's wand, circumscribing human felicity.
 3. Nowhere in Genesis does one find dukes, barons, and princes.
 - B. Paine's heretical views got him declared *persona non grata* in England.
 1. He escaped to France, whose revolutionaries he admired, and was given honorary membership in the French Assembly.
 2. But he was imprisoned by the Jacobins when he scrupled over the matter of regicide.
- III. While Burke looked at the world from a historical and moral viewpoint, Paine looked at the realities of a situation.
 - A. Referring, in *Common Sense*, to the domination of the American continent by England, Paine declared, "There is something absurd in supposing a continent to be perpetually governed by an island."
 - B. For Paine, the claims of tradition and history mattered little. He approved of what France had undertaken and he approved of what was taking place in his adopted America.
 - C. Burke understood that the French and American Revolutions were fundamentally different.
 - D. The French and American Revolutions were largely productions of philosophical and political discourse. They were text-driven, idea-driven events and became resolved constitutionally on the basis of arguments of a certain kind.
 - E. In France, however, the inspirational texts were misinterpreted by the revolutionaries. Penned by the *philosophes*, great literary figures of philosophical acumen, these writings were taken out of context and made into something different from what was intended.
 1. The *philosophes* championed recent discoveries of science, rejected superstition, and opposed the tyranny of Catholicism, working hand in glove with the monarchy.
 2. They believed human nature is perfectible.
 - F. Burke found their belief in human perfectibility excessive.

1. One representative of this faith in human perfectibility was Anton Mesmer, famous for his use of hypnotism (“mesmerism”).
 2. When one of Mesmer’s experiments failed, it prompted much ridicule, as noted by Thomas Jefferson, who was in Paris at the time.
- G. Burke saw a danger in judging the *philosophes* as wise. For Burke, wisdom comes from history; an institution should not be jettisoned until we see that all of its usefulness has been used up.
- G. Paine, on the contrary, took his approach from the natural world: If nature approved of hereditary monarchies, she would not so regularly give us “an ass for a lion.”
- H. Burke declared that “close affection” for the colonies, owing to “common names, from kindred blood, from similar privileges and equal protection” form ties “as strong as links of iron.” And, “magnanimity in politics is not seldom the truest wisdom.”
- I. Burke paid special attention to the education and self-education of the colonists, their avidity as readers, and their widespread interest in matters of law. He did not see anything comparable in the French experience; what the revolutionaries were reading was misleading them.
- J. Paine’s reply to Burke’s essay on the French Revolution—“He pities the plumage but forgets the dying bird”—is vintage Paine.
1. For Paine, the “plumage” has to do with the preservation of ancient institutions—the idea that it is much better to keep an imperfect relationship in place when the costs of an alternative are unknown.
 2. Paine was saying that any man of common sense knows immediately what the costs will be: great to the tyrant and minimal to those who face down the tyrant.
- K. Burke saw in the elimination of age-old institutional restraints a liberation of human nature’s worst instincts.
- IV. Burke’s analysis of the French Revolution would be redeemed by the French “Terror.”
- A. The phrase “a republic of virtue” was made famous by Maximilien Robespierre (1758–1794).
 - B. Robespierre connected liberty, justice, and terror.
 - C. Robespierre brought in an age of terror in the name of creating a republic of virtue. In his words: “the government of revolution is the despotism of liberty against tyranny.”

Essential Reading:

Burke, Edmund. *Reflections on the Revolution in France*. J. C. D. Clark, ed. Stanford: Stanford University Press, 2001.

Paine, Thomas. *Common Sense*. In *Thomas Paine: Collected Writings*. New York: Library of America, 1995.

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Supplementary Reading:

Browne, Ray, ed. *The Burke-Paine Controversy: Texts and Criticism*. New York: Harcourt Brace, 1963.

Questions to Consider:

1. On what do Paine and Burke rely by way of evidence for their respective political philosophies?
2. If the very principles at work in the French and American Revolutions were so different (as Burke contended), why did partisans in both countries regard them as the same?

Timeline

April 10, 1606.....	The First Charter of Virginia
November 11, 1620	Mayflower Compact
March 4, 1629.....	The Charter of Massachusetts Bay
September 21, 1649	Maryland Toleration Act
April 23, 1662.....	Charter of Connecticut
July 15, 1663	Charter of Rhode Island and Providence Plantations
August 25–September 4, 1663	A Declaration and Proposals of the Lord Proprietor of Carolina
April 25, 1682.....	Penn’s Charter of Libertie
October 7, 1691	The Charter of Massachusetts Bay
June 1754.....	Albany Plan of Union
April 19, 1764.....	Great Britain: Parliament—Currency Act
September 29, 1764.....	Great Britain: Parliament—Sugar Act
March 22, 1765.....	Great Britain: Parliament—Stamp Act
May 15, 1765.....	Great Britain: Parliament—Quartering Act
October 31, 1765	New York Merchants Non-Importation Agreement
December 10, 1765.....	Connecticut Resolutions on the Stamp Act
March 18, 1766.....	Great Britain: Parliament—An Act Repealing the Stamp Act
November 20, 1767	Great Britain: Parliament—Townshend Act
1767	John Dickinson’s “Letters from a Farmer in Pennsylvania to the Inhabitants of the British colonies”
1768	Sons of Liberty and British troops arriving in Boston
August 1, 1768	Boston Non-Importation Agreement
1770	Boston Massacre
1773	Tea Act
December 15, 1773.....	Association of the Sons of Liberty in New York
1774	Coercive Acts in response to the Boston Tea Party
September 5, 1774.....	First Continental Congress (Philadelphia)
October 14, 1774.....	Declarations and Resolves of the First Continental Congress
April 18, 1775.....	British troops deployed to Concord; Paul Revere’s ride
April 19, 1775.....	Minute Men and British troops meet at Lexington; the “shot heard round the world”
1775	Second Continental Congress
1775	Olive Branch Petition
1775	George III rejects petition
March 23, 1775.....	Patrick Henry: “Give me liberty or give me death”
January 5, 1776.....	Constitution of New Hampshire

March 26, 1776.....	Constitution of South Carolina
May 15, 1776.....	Preamble and Resolution of the Virginia Convention
June 1776.....	Draft Constitution for Virginia
June 7, 1776.....	Lee's Resolution
June 12, 1776.....	Virginia Declaration of Rights
July 4, 1776	Declaration of Independence
March 1, 1780.....	An Act for the Gradual Abolition of Slavery (Pennsylvania)
March 1, 1781.....	Articles of Confederation
1783	The Paris Peace Treaty of 1783 and associated documents
September 11–14, 1786	Proceedings of the Commission to Remedy Defects of the Federal Government (Annapolis, Maryland)
February 21, 1787.....	Report of Proceedings in Congress
1787	Continental Congress passes the Northwest Ordinance
May–September 1787.....	Madison's Notes of Debates in the Federal Convention
September 17, 1787	U.S. Constitution adopted by the convention
June 26, 1788.....	Ratification of the Constitution by the State of Virginia
March 4, 1789.....	Resolution of the First Congress Submitting Twelve Amendments to the Constitution

Glossary

Albany Plan of Union: Proposed chiefly by Benjamin Franklin, the plan called for a unified colonial government with the power to regulate trade between the colonies and provide for the common defense. The plan was submitted to the Crown in 1754 but was not accepted.

Anti-Federalists: Major writers and delegates opposed to a strong national government and committed to the preservation of the rights of the separate colonies. The Anti-Federalists also pressed for rejection of the Constitution unless it included a Bill of Rights.

Articles of Confederation: In force from 1781 to 1788, the articles stood as the first Constitution of the United States. The articles were composed in 1777 by a special committee of the Second Continental Congress. They were presented to Congress for approval eight days after the signing of the Declaration of Independence but were not ratified for several years.

Bill of Rights: The first 10 amendments to the U.S. Constitution, protecting freedom of speech, religion, and the press and otherwise restraining the application of governmental power.

Burgesses: Another term for a state congress. The Virginia House of Burgesses was the first popularly elected legislative body in America, its first meeting taking place on July 30, 1619.

Chancellor of the Exchequer: In British Parliamentary government, the officer chiefly responsible for the management of the budget.

Committee of Detail: The committee appointed by the Constitutional Convention to organize the resolutions passed by the delegates.

Committee of Style: The committee of five, appointed by the Constitutional Convention, to refine the wording of the Constitution. Chaired by William Samuel Johnson, the members included James Madison, Gouverneur Morris, Alexander Hamilton, and Rufus King.

Connecticut Compromise: Known also as the Great Compromise, this was Roger Sherman's proposal for respecting the fears of the smaller states, as well as the reasonable rights of the larger ones. One house of Congress, the Senate, would allot the same number of seats to each state. The House of Representatives would then allot seats on the basis of population.

Constitution: Generally, the laws and structure of a government that establish the means by which disputes are resolved, relations with other jurisdictions are conducted, and the interests of the citizens are secured. Constitutions are not always reduced to writing but do establish their force and perceived validity by way of historical precedents clearly documented.

Constitutional Convention: The assembly appointed by the Congress in 1787 to revise the Articles of Confederation.

Constitution of the United States: The specific provisions adopted by the delegates to the Constitutional Convention in 1787 and later submitted for ratification by the 13 states.

Continental Congress: The First Continental Congress was an assembly of about 50 delegates representing all the colonies except Georgia and meeting in Philadelphia on September 5, 1774. It was designed to petition the king with a Declaration of Rights and Grievances. When the petition was ignored, a Second Continental Congress met in May 1775 and effectively served as something of a national government throughout the revolutionary period.

Currency Act: One of the "intolerable acts" of Parliament; prevented the colonies singly or collectively from issuing currency.

Dred Scott: The landmark Supreme Court decision in *Scott v. Sandford* (1857) rejected the claim that fugitive slaves had the status or any of the rights of citizens.

Federalists: The term referring to those who advocated a strong, centralized federal government rather than a mere federation of independent states.

Federalist Papers: Conceived by Hamilton and aimed chiefly at securing the ratification of the Constitution by New York, these are the 85 letters published in the New York newspapers and written by Hamilton, Madison, and Jay. They rank among the more prescient and incisive documents in political science.

French and Indian Wars: The Seven Years' War as fought in the New World. At stake was whether Canada and America would become colonies of France or Great Britain. The major powers, already at war for empire in Europe, now contested for control of the eastern seaboard, the western (Ohio) territories, and Canada.

Glorious Revolution: The 17th-century (1688) civil war in Great Britain that established the sovereignty of Parliament in the matter of legislation.

Great Compromise: See **Connecticut Compromise**.

Imperium in Imperio: A phrase translating as an "empire within an empire" and employed by Royalists to criticize those who argued that the colonies could be both self-governing and part of the British Empire.

Loyal Nine: The first group of those who would become the Sons of Liberty.

Loyalist: One who rejected independence from Great Britain and affirmed loyalty to the British monarch.

Molasses Act: Another Parliamentary act designed to increase revenues at the expense of the colonies, here by imposing additional taxes on sugar.

Natural Law: That theory of law, dating back at least to Aristotle, according to which the very concept of law and its validity are grounded in the essential nature of rational beings.

Olive Branch Petition: Yet another and final attempt to avert what most saw as an inevitable war of independence. This petition declared a desire to remain faithful subjects to the Crown, but only on condition that grievances be addressed and abuses, rectified.

Parliament: The constitution of Great Britain is "the king in Parliament," which is to say, the monarch administering the law enacted by the representatives of the people.

Publius: The pseudonym adopted by the three contributors to *The Federalist Papers*.

Puritan: A member of that conservative Protestant community that attempted to reform the Church of England along "purer" or more austere lines. Chief among its tenets was the rejection of hierarchic structure within the Church and conformity to codes of conduct based on Scripture. Puritanism was the dominant form of religion in the colonies for more than a century, beginning with the Plymouth landing in 1620.

Royalist: One who declared himself a faithful subject of the British monarch.

Seven Years' War: The prolonged (1756–1763) contest, chiefly between France and Great Britain, for supremacy in Europe and in far-flung colonies. Britain was joined by Hanover and Prussia against France and her allies, Austria, Russia, Saxony, Sweden, and Spain. (See **French and Indian Wars**.)

Sons of Liberty: The first organized body committed to the boycott of British goods and resistance to taxation.

Sovereignty: In general, the source of political and legislative authority. With the Preamble to the Constitution identifying this source as, "We the People," the United States officially affirmed that sovereignty resided in the citizens.

Stamp Act: This was the straw that broke the camel's back. Though withdrawn, it so incensed Americans as to make independence from Great Britain an imperative.

Stuarts: The royal succession of the House of Stuart began with James I (1602–1625) and ended, for a time, with the execution of Charles I (1649). The restoration of the Stuart monarchy, after a century under protectors (notably Oliver Cromwell), began in 1660 with Charles II and ended in 1714.

Sugar Act: Parliament assessed additional taxes on sugar, thus raising the price of American products and reducing income from exports.

Tea Act: This act actually promised to provide tea at cut-rate prices as Britain attempted to unload excess supplies. But by requiring the colonies to purchase it, Parliament further inflamed hostilities. The tea that reached the bottom of Boston Harbor would give rise to the historical label “Boston Tea Party.”

The Terror: In the wake of the French Revolution, France under Robespierre hosted a period of censorship and imposed orthodoxies backed up with torture, arbitrary imprisonment, and unbridled official violence.

Tory: This term has a complex pedigree, used first for Irish outlaws! Its modern sense refers to those who supported James II, though he was Roman Catholic, on the grounds of “divine rights” of kings. Later, the term was applied to those who defended orthodox Anglicanism and reserved full political rights to members of the Church of England. It is out of the Tory party that the modern Conservative party arose.

Treaty of Paris: The Treaty of 1783, drafted chiefly by Benjamin Franklin and John Jay, concluding the war between the United States and Great Britain.

Whig: The party of Shaftesbury, who opposed the accession of James II on the grounds of his attachment to the Church of Rome. With the Glorious Revolution of 1688 and the accession of Parliament to a position of power and authority, the Whig party enjoyed a position of dominance.

Biographical Notes

John Adams (1735–1826): Born in Braintree, Massachusetts, and educated at Harvard. From 1774–1778, he served in the Continental Congress. He also served as commissioner to France (1778–1779), minister to the Netherlands (1780–1781), peace commissioner to France (1782–1783), minister to Great Britain (1785–1788), and president of the United States (1797–1801).

John Dickinson (1732–1808): The “penman of the Revolution,” Dickinson had one of the best legal minds in America. He studied law in England (1753–1757), returning to serve in both the Delaware and Pennsylvania legislatures (1760–1765). His service to the Stamp Act Congress (1765) and Continental Congress won him many admirers. Founder of Dickinson College and president of both Delaware and Pennsylvania, Dickinson was a signal participant in the cause of the Constitution.

Benjamin Franklin (1706–1790): “The American Sage.” Born in Boston, publisher of *Poor Richard’s Almanac*, scientist and inventor, diplomat, printer, and a man of many charms, Franklin was one of the most admired men of the Enlightenment—America’s Voltaire. It was he who negotiated the Treaty of Paris (1783) and who, as the representative in Britain for four American colonies (1764–1775), made clear to Parliament that the Stamp Act would lead to open warfare.

Alexander Hamilton (1755–1804): Born in the British West Indies and educated at King’s College (Columbia University), Hamilton was one of the most remarkable and complex of the founders. His service as aide-de-camp to George Washington was distinguished. He would prove to be the most influential secretary of the treasury (1789–1795) in American history. His proposals were radical but his political writings in *The Federalist* are classics in political theory.

John Hancock (1737–1793): Born in Braintree, Massachusetts, Hancock served as president of the Continental Congress. He was also governor of Massachusetts and president of the Massachusetts ratifying convention. A man of great wealth, he risked all for the cause. So admired was Hancock that had there not been a George Washington, Hancock may have been the first president of the United States.

Patrick Henry (1736–1799): A firebrand and, perhaps, America’s greatest rhetorician, Henry turned to law only after failing as a farmer and a businessman. As a member of the Virginia House of Burgesses (1765–1775), he urged the cause of independence: “Is life so dear, or peace so sweet, as to be purchased at the price of chains and slavery? Forbid it, Almighty God! I know not what course others may take, but as for me, give me liberty or give me death!”

John Jay (1745–1829): Born in New York, New York, and educated at King’s College (Columbia University), Jay served as president of the Continental Congress (1778–1779) and chief justice of the Supreme Court (1789–1795). His several contributions to *The Federalist* would not compare with those of Madison and Hamilton, but with Franklin, he negotiated the Treaty of Paris, and in the New York legislature, he did much to promote the ratification of the Constitution.

Thomas Jefferson (1743–1826): Born and buried in Virginia, a citizen of his state first and still the most controversial figure in American political history. Immortalized by the Declaration of Independence, Jefferson promoted education, founded a great university, served as U.S. president for two terms (1797–1801), and gave principle to the popular enthusiasm. His influence on Madison was considerable.

Richard Henry Lee (1732–1794): Born and buried in Virginia, educated in England, Lee was a pivotal figure in the influential politics of Virginia. He was a member of the House of Burgesses (1758–1775) and of the Continental Congress, whose very creation he had proposed. It was Lee’s Virginia resolution that “these United colonies are, and of right ought to be, free and independent States.”

James Madison (1751–1836): Born and buried in Virginia, more than any other person, Madison is the “Father of the Constitution.” His part in it outweighs his U.S. presidency (1809–1817). His contributions to *The Federalist* are landmarks in constitutional theory.

George Mason (1725–1792): Another Virginian, Mason agitated for a bill of rights and, alone among the southern delegates to the Constitutional Convention, hated the institution of slavery, declaring it to be “diabolical in itself and

disgraceful to mankind.” His commitment to a rule of law respectful of the individual person was unsurpassed by any and matched by very few among the delegates.

Gouverneur Morris (1752–1816): A New Yorker and graduate of King’s College (Columbia University), Morris was first opposed to the separation from Britain but then came to favor and defend true nationhood for the United States. Author of the Preamble to the Constitution, Morris submitted a document that expressed the resolutions of “We the People.” As minister to France in the 1790s, during the Terror, he became *persona non grata* for helping such nobles as Lafayette escape the long arm of the Jacobins.

Edmund Randolph (1753–1813): Another of Washington’s aides-de-camp, Randolph presented the Constitutional Convention with the Virginia Plan, thus more or less converting the convention from the task of refining the Articles of Confederation to that of forming a nation.

Maximilien Robespierre (1758–1794): A leader in post-Revolutionary France, he was the dominant figure in the 12-man Committee of Public Safety, which in 1793, launched the infamous Terror. The following year, Robespierre himself would be guillotined.

Benjamin Rush (1745–1813): A medical doctor educated at Edinburgh, a great reformer, the father of American psychiatry, and a leader in the anti-slavery movement, Rush was suspicious of Washington during the Revolutionary War. His was an important voice in Pennsylvania, and it helped secure that state’s support of the Constitution.

Roger Sherman (1721–1793): Among the older delegates to the Constitutional Convention, Connecticut’s Roger Sherman introduced that Great Compromise that did much to break the logjam. His early years were spent in the trade of cobbler, but his native genius reached for more. With Franklin and Jefferson, he drafted the Declaration of Independence.

George Washington (1732–1799): The greatest American.

James Wilson (1742–1798): A native Scot (St. Andrews), Wilson was the man who held the convention together at key and worrisome points. He was the aged Ben Franklin’s spokesman at the Constitutional Convention. Later, as associate justice of the first U.S. Supreme Court, he wrote opinions that shaped not only constitutional law but also the nation’s understanding of its foundational precepts.

John Witherspoon (1723–1794): Witherspoon was another native Scotsman who had a lasting effect on the United States. He came as president of the College of New Jersey in 1768 and transformed it, as Princeton, into one of the world’s leading institutions of higher learning. He not only was a signer of the Declaration, but one who spoke on its behalf with such power and eloquence as to overcome any reluctance still lingering in the room on the day of the signing.

Bibliography

Essential Reading:

Adams, John. *The Revolutionary Writings of John Adams*. Selected with a foreword by C. Bradley Thompson. Indianapolis: Liberty Fund, 2000. The volume includes Adams's *Novanglus*, as well as his contribution to the Massachusetts Constitution.

Burke, Edmund. *Reflections on the Revolution in France*. J.C.D. Clark, ed. Stanford: Stanford University Press, 2001. Here is one of the greatest essays in the English language and one of the most authoritative critiques of the French Revolution.

Colbourn, Trevor. *The Lamp of Experience: Whig History and the Intellectual Origins of the American Revolution*. Indianapolis: Liberty Fund, 1998. This is a reprint of the 1965 edition. Colbourn presents the intellectual roots and branches of thought in New England, Pennsylvania, and the South during the revolutionary period. His appendices include the library holdings of major persons, curricular readings at Harvard, and related material.

Frohnen, Bruce, ed. *The Anti-Federalists: Selected Writings and Speeches*. Lanham, Maryland: Regnery, 1999. In some respects, the Bill of Rights is a debt to the Anti-Federalists, who saw, perhaps more clearly, the prospect of a central government that must finally grow too amply.

Hamilton, Alexander, James Madison, and John Jay. *The Federalist Papers*. New York: Mentor Books, 1999. Here are the 85 letters that explained and justified the Constitution and, in the process, contributed significantly to the political science of constitutionalism.

Johnson, Paul. *A History of the American People*. New York: Harper Collins, 1998. This volume in the authoritative Cambridge series is now a standard source.

Kurland, Philip, and Ralph Lerner, eds. *The Founders Constitution (in Five Volumes)*. Indianapolis: Liberty Fund, 2000. No volumes in print afford anything comparable to this extraordinary collection of documents, letters, commentaries, and official papers. The five volumes are a "must" for students of U.S. constitutional history.

Lutz, Donald, ed. *Colonial Origins of the American Constitution*. Indianapolis: Liberty Fund, 1998. Provided here are the texts and treatises that would serve as the immediate background of the Constitutional Convention.

McDonald, Forrest. *E Pluribus Unum: The Formation of the American Republic, 1776–1790*. Indianapolis: Liberty Fund, 1979. A distinguished historian traces the regional occurrences and attitudes during the Revolution and the Constitutional Convention itself. Major figures and major differences between the states are explored with clarity and discernment.

Middlekauff, Robert. *The Glorious Cause: The American Revolution*. Oxford: Oxford University Press, 1982. Middlekauff provides a textbook covering the major events. This is a thick volume, useful for those planning to undertake more detailed research.

Paine, Thomas. *Common Sense*. In *Thomas Paine: Collected Writings*. New York: Library of America, 1995. This was the pamphlet that everyone read, written with a style that still excites the passions.

———. *The Rights of Man*. In *Thomas Paine: Collected Writings*. New York: Library of America, 1995. In this work, Paine replies to Burke's devastating critique of the French Revolution.

Supplementary Reading:

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———, ed. *The Debate on the Constitution*. New York: Viking Press, 1993. A leading scholar of U.S. constitutional history identifies the principal issues that frustrated attempts to secure adoption.

Berlin, Ira. *Many Thousands Gone: The First Two Centuries of Slavery in North America*. Cambridge: Harvard University Press, 1998. This volume provides data and describes the attitudes and conditions surrounding the slave trade from its modest beginnings to its extraordinary growth.

Boatner, Mark. *Encyclopedia of the American Revolution*. New York: McKay Company, 1974. Here is an encyclopedic summary of major events, dates, and personages associated with the Revolution.

Bonwick, Colin. *The American Revolution*. Charlottesville: University of Virginia Press, 1991. Bonwick's book is an accessible review of the revolutionary period, the principal causes, and principal characters.

Bowen, Catherine. *Miracle at Philadelphia*. Boston: Little Brown, 1966. Surely the most readable account of the Constitutional Convention, this volume virtually locates the reader in the intense discussions surrounding the creation of the Constitution.

Brown, Wallace. *The Good Americans: The Loyalists in the American Revolution*. New York: Morrow, 1969.

Wallace Brown provides a sympathetic and informative account of the motives and character of those who remained faithful to the king, often at great personal cost.

Browne, Ray, ed. *The Burke-Paine Controversy: Texts and Criticism*. New York: Harcourt Brace, 1963. This slim volume presents the fundamental differences between Paine and Burke on the rationale and causes of the revolutions in America and France and Paine's defense of both.

Callahan, Kerry. *The Articles of Confederation: A Primary Source Investigation into the Document That Preceded the U.S. Constitution*. New York: Rosen Primary Source, 2003. The author examines the specific articles, the weaknesses of the document as an effective instrument of union, and the rationale behind its provisions.

Cappon, Lester, ed. *The Complete Correspondence between Thomas Jefferson and Abigail and John Adams*. Chapel Hill: University of North Carolina Press, 1959. This collection of letters reveals the inner workings of two minds that shaped the government and much of the early history of the United States. The range of their interests, the depth and breadth of their knowledge, and the sheer power of their intelligence continue to amaze.

Commager, Henry, and Richard Morris. *The Spirit of Seventy-Six: The Story of the American Revolution as Told by Participants*. New York: Harper and Row, 1958. For decades, a standard source of more than 1,300 pages, including letters, diaries, poems, chronicles, and addresses written by those in the pitch of revolution.

Countryman, Edward. *The American Revolution*. New York: Hill and Wang, 2003. Countryman summarizes the major events in the period leading up to and just after the War of Independence.

Crary, Catherine S. *The Price of Loyalty: Tory Writings from the Revolutionary Era*. New York: McGraw Hill, 1973. This informing volume gives voice to "the other side," revealing the various but sincere grounds on which America's cause was subjected to critical appraisal.

Ellis, Joseph. *American Sphinx: The Character of Thomas Jefferson*. New York: Alfred Knopf, 1997. There is so much in print on this complex icon of American history. Ellis offers a credible glimpse, clearly sketched and humanely brief.

Fleming, Thomas. *1776: Year of Illusions*. New York: Norton, 1975. America was not of one mind either on the question of independence or on the grounds that would justify, if not necessitate it.

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Hossell, Karen. *The Bill of Rights*. Chicago: Heinemann, 2003. This very useful volume contains the amendments to the Constitution, with a discussion of each amendment and its historical and conceptual framework.

Isaacson, Walter. *Benjamin Franklin: An American Life*. New York: Simon and Schuster, 2003. The "American sage" never disappoints, and Isaacson wisely gives him ample space to speak for himself.

Labaree, Benjamin Woods. *The Boston Tea Party*. New York: Oxford University Press, 1964. A readable account of what the fuss was all about.

Maier, Pauline. *From Resistance to Revolution: Colonial Radicals and the Development of an Opposition to Britain, 1765–1776*. New York: Alfred Knopf, 1967. Maier charts with insight and clarity the movement of ideas that would culminate in the final break with the mother country.

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May, Henry. *The Enlightenment in America*. New York: Oxford University Press, 1976. This is a fine survey of the debts and contributions of the American intellectual class during the 18th century. Especially useful is the discussion of Scottish influences.

Morgan, E. S., and Daniel Boorstin. *The Birth of the Republic: 1763–1789*. Chicago: University of Chicago Press, 1977. This volume focuses on the crucial quarter of a century from the end of the Seven Years' War to the ratification of the Constitution.

Noll, Mark. *The Old Religion in a New World: The History of North American Christianity*. Grand Rapids, Michigan: Eerdmans, 2002. Christianity was the bedrock of every one of the early colonies and informed their official documents. A de facto "theocracy" of sorts operated in these colonies, its influence still palpable as the political world of the new nation unfolded.

Pocock, Tom. *Battle for Empire: The Very First World War, 1756–1763*. London: Michael O'Mara Books, 1998. The Seven Years' War found the colonial world at the center of a world war, its fate tied to the successes and failures of the major contestants.

Raphael, Ray. *A People's History of the American Revolution: How Common People Shaped the Fight for Independence*. New York: Perennial Books, 2002. Behind the marbled dignity of a Washington and the peevish erudition of an Adams were the people—whose judgments and sentiments and courage were to be the deciding factor in the war for independence.

Schama, Simon. *Citizens: A Chronicle of the French Revolution*. New York: Vintage Books, 1990. Edmund Burke was right, his condemnations now seen to be understatements. The Francophile will resist, but Schama's data are unimpeachable.

Schneider, Dorothy, and Carl Schneider. *Slavery in America from Colonial Times to the Civil War*. New York: Facts on File, 2000. The issue of "race" is integral to American history. It was divisive from the first and raised the gravest portents in the matter of the union.

Sheehan, Colleen, and Gary McDowell. *Friends of the Constitution: Writings of the "Other" Federalists, 1787–1788*. Indianapolis: Liberty Fund, 1998. Apart from "Publius," there were many eminent and ordinary citizens and foreign observers who commented on the constitutional structure created in Philadelphia. This volume includes important essays and lectures by such notables as Noah Webster, James Wilson, and Roger Sherman and instructively supplements *The Federalist Papers*.

Smith, Paul Hubert. *Loyalists and Redcoats: A Study in British Revolutionary Policy*. New York: W.W. Norton, 1972. The attitudes of the loyalists more or less rendered independence the only reasonable course of action. Had these attitudes been different, much of history since 1776 would be radically different.

Van Tyne, Claude. *The Loyalists in the American Revolution*. New York: B. Franklin, 1970. All principle was not on one side in the conflagration.

Washington, George. *A Collection*. W. B. Allen, ed. Indianapolis: Liberty Fund, 1988. Here in a single volume of some 700 pages are the observations, thoughts, philosophy, and broad political and moral outlook of the first president and, by some accounts, the best leader the nation could have hoped for at the time of its origins.

Wood, Gordon S. *The Creation of the American Republic, 1776–1787*. Chapel Hill: University of North Carolina Press, 1969. This older but ever authoritative volume gives the reader access to one of the leading scholars of American history

Internet Resources:

<http://www.famousamericans.net>. This Web site provides biographies of major figures in U.S. and colonial American history.

<http://www.usconstitution.net>. This site includes complete founding documents, as well as timelines and related material.

<http://eserver.org/18th>. This is a major source-site for 18th-century cultural and intellectual history, including complete works by major figures in politics and the arts.